

DIGEST OF CASES REPORTED IN

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APPEAL :—

1. *Extension of Time*—"Any Matter not being an action"—*Proceedings Commenced in County Court—Appeal Dismissed by Divisional Court—Final Order—R.S.C. Order 58, r. 15—C.C.R. 1903 and 1904, Order 5, 1.*—An action was commenced by plaintiff in a county court, and the plaintiff obtained judgment for a certain amount. On the 1st of May the defendants' appeal to the Divisional Court was dismissed, and on the 15th of June the defendants gave notice of appeal to the Court of Appeal. The plaintiff raised the point that the time for appealing was fourteen days and that the notice of appeal was out of time. In order to have this objection decided the point was raised by motion by the defendants "for leave for the Court to hear the appeal notwithstanding that the time limit had expired before the appeal was set down."

Held, that as the appeal was from a final order in "an action" and not an appeal from a final order in a "matter not being an action" within the meaning of ord. 58, r. 15, the time for appealing was three months and therefore the motion was dismissed as the application for extension of time was unnecessary.—*JOHNSON v. REFUGEE ASSOCIATION CO., C.A., 128; 1913, 1 K.B., 259.*

2. *Right of appeal—Decision of Railway and Canal Commission under Telegraph (Arbitration) Act, 1909.*—By an agreement between the National Telephone Company and the Postmaster-General all questions and matters of difference between them in connection with the purchase of the company's undertaking were to be referred to the Railway and Canal Commission, if that body should be authorized to entertain them. The Telegraph (Arbitration) Act, 1909, conferred this power and imposed the duty upon the Railway and Canal Commission. The Commission having determined the matters in difference between the parties, the Postmaster-General appealed to the Court of Appeal.

The National Telephone Company raised a preliminary objection to the appeal being heard, on the ground that the matter came before the Commissioners as arbitrators and not as a court. The objection having been over-ruled (*Buckley, L.J., dissenting*), the question of jurisdiction was raised in this House, the appeal on its merits standing over pending the decision of this House on the question of competency of jurisdiction.

Held, that the decision of the Court of Appeal (29 L.T.R. 190) was right.

Semblé, the decision of the Court of Appeal is not final in such a matter, and an appeal can be heard by this House.—*NATIONAL TELEPHONE CO. v. THE POSTMASTER-GENERAL, H.L., 661.*

See also *Camerá, Hearing in—Costs.*

ARBITRATION :—

Agreement for reference—Stay of proceedings in action—Questions of law unsuited for arbitration—Discretion of court—Arbitration Act, 1889, s. 4—Contract—Representation that goods are suitable for special purpose—Negligence in making false representation—Tort.—Where a contract contains an agreement to refer disputes to arbitration, the court will, as a rule, stay proceedings in an action on the contract, even though difficult questions of law are involved, provided such questions cannot be dealt with until the facts have been ascertained. The action may be allowed to proceed so far as regards matters which are outside the scope of the arbitration clause, and do not involve substantially the same facts and rights as fall to be determined by the arbitrator.

A purchaser buying goods on the recommendation of the vendor that they are suited to a special purpose, has a remedy by action for breach of contract, and not for tort, in negligently giving bad advice, if the goods prove unsuitable.—*ROWE BROS. v. CROSSLEY BROS., C.A., 144.*

ASSURANCE COMPANY :—

Winding-up—Proof under employer's liability policy—Claims on accidents happening after winding-up order—Valuation of liability—Assurance Companies Act, 1908, s. 17, Schedule VI, D.

—On the winding-up of an insurance company, proofs were sent in by the holders of an employer's liability policy claiming (*inter alia*) payment of indemnity in respect of accidents which happened after the date of the winding-up order.

Held (*Buckley, L.J., dissentiente*), that in respect of liabilities which were not ascertained at the date of winding-up, the holders were only entitled to prove for the value of their policy as at that date, in accordance with the rules in Schedule VI. of the Assurance Companies Act, 1909, which, for that purpose, have superseded the rule laid down in *Re Northern Counties of England Fire Insurance Co.; Macfarlane's Claim* (17 Ch. D. 337).

Decision of *Neville, J.* (57 SOLICITORS' JOURNAL, 185), reversed.—*RE LAW CAR AND GENERAL INSURANCE CORPORATION, C.A., 556; 1913, 2 Ch. 103.*

BANKER :—

1. *Crossed cheque—Signature by procuration—Misappropriation by agent—Liability of collecting banker—Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61), ss. 25, 82.*—A managing clerk was in complete control of the plaintiff's (his principal's) business. In 1888 the plaintiff gave N. Bank written authority to pay and honour all cheques drawn by the clerk purporting to be drawn by him "per pro Bruce Morison" or on "Bruce Morison's Account." In 1907 the clerk opened a private account with the defendant bank, and in fraud of the plaintiff drew and endorsed cheques on N. Bank in his own name "per pro Bruce Morison" payable to himself or the defendant Bank, and paid them into his private account. In 1908 the plaintiff found that the clerk had been defrauding him of large sums, but allowed him to remain in his employment. The plaintiff never knew at any time that the clerk had opened an account with the defendant bank or had transferred to that account his firm's moneys. The plaintiff now sued the defendant bank for £1,885 3s. 9d., these moneys. The defendants relied on section 82 of the Bills of Exchange Act.

Held, that section 25 of the Bills of Exchange Act must be read with section 82, and that as by section 25 the defendant bank had notice that the principal would only be bound if the agent was acting within the limits of his limited authority, the defendant bank were liable to the plaintiff for the conversion of the cheques.

Held, also, on the evidence (see *infra*), that the fact that the cheques had been met for a considerable period or that inquiry at the N. Bank would not have revealed the frauds, was no defence, and did not relieve the defendant bank from the duty of inquiring from the plaintiff; that the plaintiff had not ratified the acts of the clerk; and that the defendants could not rely on the defence of estoppel.—*MORISON v. LONDON COUNTY AND WESTMINSTER BANK, K.B.D., 427.*

2. *Loans to—Bearer bonds as security—Delivery of bonds in exchange for cheque—Usage—Bonds not impressed with trust in favour of banker—Negotiable securities.*—A firm of bill-brokers borrowed money from the plaintiff banks on depositing bearer-bonds as security. The loans were called in by the plaintiffs, and, in accordance with the general practice in such cases, the securities were returned to the bill-broker in exchange for his cheques. The defendant bank in the course of the same day received the securities in question, and, the cheques given to the plaintiffs having been subsequently dishonoured, the plaintiffs sued the defendants for a return of the bonds or their value, alleging that by the practice of bankers the securities were impressed with a trust in their favour until the cheques were met.

Held, affirming decision of *Hamilton, J.* (56 SOLICITORS' JOURNAL, 688), that no binding practice or usage had been established and that the securities were not impressed with any trust in the plaintiffs' favour.—*LLOYDS BANK v. SWISS BANK-VEREIN, C.A., 243.*

3. *Pass book—Cheque—Forgery—Account stated—Negligence of customer.*—The fact that a customer of a bank does not examine his pass book, although the examination might have revealed a

fraud, does not render the customer bound by the payments of the bank in consequence of such fraud or subsequent frauds.—WALKER v. MANCHESTER AND LIVERPOOL BANKING CO., K.B.D., 478.

See also Bills of Exchange.

BANKRUPTCY :—

1. *Act of bankruptcy—Notice of intention to suspend payment—Authority of secretary of company to affix seal to petition—Bankruptcy Act, 1883, ss. 4 (1), 148.*—A circular stating that the debtor had found it necessary to consult his solicitors and to call a meeting to discuss affairs and the methods of continuing his business is a notice of intention to suspend payment.

A resolution of directors of a company that their secretary be authorised to present a petition is sufficient authority for affixing the company's seal to the instrument authorising the secretary to present the petition.—RE MIDGELEY, Bkcy., 247.

2. *Act of bankruptcy—Possession of goods seized by sheriff for twenty-one days—Interpleader proceedings terminated by a consent order—Exclusion of days from period of possession—Bankruptcy Act, 1890, s. 1.*—Goods were seized by the sheriff in execution on the 20th of May. The sheriff took out an interpleader summons on the 9th of June, upon which an order was made by consent on the 12th of June, and the goods were sold on the 13th of June.

Held, that the time occupied by the interpleader proceedings could not be deducted from the period during which the sheriff had held possession, and that, as he had held possession for twenty-one days, the execution debtor had committed an act of bankruptcy before the sale, and her trustee in bankruptcy was entitled to recover the proceeds of sale paid to the execution creditors.

Decision of Phillimore, J. (56 SOLICITORS' JOURNAL, 706), reversed.—MASON v. BOLTON'S LIBRARY, C.A., 96; 1913, 1 K. B. 53.

3. *Costs—Order against official receiver personally for payment of costs—Application for adjudication—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), ss. 16, 20, 105, Rules 108 (3), 191, 192, 231, 339.*—When an official receiver is discharging a duty of a judicial character, which he is bound by statute to perform, he cannot be made to pay costs; but where he does anything which he is only authorized, but not compelled, to do, he can be made to pay costs like any ordinary person.

RE TWEDDE & CO. (LIMITED) (1910), 2 K. B. 697, followed.

Dictum of Wright, J., in *Re Raynes Park Golf Club (Limited)* (1899, 19 B. 961), that a personal order upon an official receiver to pay costs amounts to a declaration that he has been guilty of misconduct overruled.

There is no provision in the Bankruptcy Acts which either implicitly or impliedly makes it obligatory upon the official receiver to apply for the adjudication of a debtor.—RE ARTHUR WILLIAMS & CO., C.A., 285; 1913, 2 K. B. 88.

4. *Judgment debt—Stay of execution—Bankruptcy notice—Garnishee order absolute—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 4, sub-section 1 (g).*—A judgment creditor who has obtained a garnishee order absolute attaching a debt due to his debtor, is not precluded from also issuing a bankruptcy notice against his debtor unless there is evidence that the debtor has been prevented from paying his debt by the operation of the garnishee order.—RE RENISON, Bkcy., 445; 1913, 2 K. B. 300.

5. *Lunatic not so found by inquisition—Receivership order in lunacy—Power of Bankruptcy Court to make receiving order—Lunacy Act, 1890 (53 Vict. c. 5), s. 118, sub-section 1 (c).*—A lunatic not so found by inquisition can be made bankrupt for non-compliance with a bankruptcy notice. The fact that a receiver has been appointed to receive the interest and dividends of the lunatic is no reason why a receiving order should not be made so long as the order appointing such receiver does not vest the whole of the debtor's property in the receiver, leaving no estate of which a trustee in bankruptcy can take possession.—RE BELTON, Bkcy., 343.

6. *Petition—Judgment debt founded on award—Going behind judgment—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 7, sub-section (3).*—Where a petition is based on a judgment debt founded on an award, and there is no allegation of fraud or improper conduct against the arbitrator, the court will not go behind the judgment to the extent of re-opening the award and re-trying what has already been decided by the arbitrator.—RE NEWHEY, Bkcy., 174.

7. *Practice—Service of petition—“Person carrying on business under a partnership name”—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 115—Bankruptcy Rules, 1896-1890, r. 260—R. S. C. xlvi. A, 3, 11.*—When a petition has been presented against a debtor who, to the knowledge of the creditor, carries on business alone under a partnership or trade name, it must be served personally upon the debtor, and it is not sufficient to serve it upon a person

having at the time of service the control or management of the business.—RE PATRICK, Bkcy., 9.

8. *Principal and surety—Joint judgment debtors—Time given to one judgment debtor—Mercantile Law Amendment Act, 1856 (19 & 20 Vict. c. 97), s. 5.*—Where a creditor has obtained a judgment against a principal debtor and his surety he can enforce the judgment against the surety, in spite of his having, since the judgment, given time to the principal debtor.—RE BUTTEN, Bkcy., 579.

9. *Proof—Debt contracted after act of bankruptcy—Notice of act of bankruptcy—Onus of proof—Bankruptcy Act, 1849 (12 & 13 Vict. c. 106), s. 165—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 37, sub-section 2.*—When a trustee in bankruptcy rejects a proof of debt on the ground that the debt was contracted with notice of an available act of bankruptcy, the onus is upon him to prove that the creditor had notice of such act of bankruptcy.

Ex parte Revell, Re Tollemache (No. 2) (13 Q.B.D. 727), distinguished.—RE PEEL, EX PARTE HONOUR, Bkcy., 730.

10. *Property of the bankrupt divisible among his creditors—Property held by the bankrupt on trust for any other person—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 44.*—Where an auctioneer make himself personally liable to pay those whose goods he sells, irrespective of whether he has been paid or not by the buyers, the money which he receives from the buyers is not impressed with any trust in favour of the sellers, but is divisible upon his bankruptcy among the general body of creditors.—RE COTTON, EX PARTE COOKE, Bkcy., 174.

11. *Sale by trustee of bankrupt's business to limited company—Trustee and members of committee of inspection allowed to hold shares in the company—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 56—Bankruptcy Rules, 1886-1890, rr. 316, 316a, 317.*—Where there are special circumstances which show it to be in the best interest of the creditors, the court will allow the trustee and members of the committee of inspection to become interested in the purchase of the bankrupt's estate.—RE SPINK, Bkcy., 445.

See also Company.

BILL OF SALE :—

Bankruptcy of grantor before first instalment accrues due—Property whether in his order and disposition with consent of grantee—Irish Bankrupt and Insolvent Act, 1857 (20 & 21 Vict. c. 60), s. 313—Bills of Sale (Ireland) Act, 1879; Amendment Act, 1883 (46 Vict. c. 7), s. 7.—Held, following *In re Ginger—Ex parte London and Universal Bank* (1897, 2 Q. B. 481, 46 W. R. 144), that the goods comprised in a bill of sale are in the order and disposition of the grantee “by the consent and permission of the true owner” within the reputed ownership clause (section 44 (2)) of the Bankruptcy Act, 1883, although the consent of the grantee—as the true owner—was involuntary by reason of his being prohibited from seizing the goods by section 7 of the Bills of Sale Act, 1882.—RE HARVEY, HOLLINSHEAD v. EGAN, H.L., 661.

BILLS OF EXCHANGE :—

Cheques crossed generally, paid by bank otherwise than to a banker—Knowledge of payees of method employed by their collector—Misappropriation by collector—Liability of bank—Estoppel—Bills of Exchange Act, 1882 (45 & 46 Vict. c. 61), s. 79.—The plaintiffs were merchants and the defendants bankers. The plaintiffs kept current accounts with a trading society as well as with the defendants. They had a cashier and collector who kept a current account on his own behalf with the trading society. It had been a frequent practice of the plaintiffs' cashier, instead of receiving cash for cheques drawn on the defendants, to obtain from the defendants cheques of corresponding amount drawn by them on another bank in favour of the plaintiffs or bearer and crossed generally, since the trading society refused to collect for their customers cheques drawn upon the defendants. Certain of these cheques having been misappropriated by the cashier, the plaintiffs claimed that the defendants were liable to make good the loss.

Held, that the principle of payment adopted by the defendant bank was not a mere exchange of securities, but a “payment of a crossed cheque paid by a bank other than to a banker”; but that the plaintiffs, having knowledge that their cashier often obtained payment of their customers' cheques in this way, were estopped from denying he had authority from them and could not succeed in their claim against the bank.—MEYER v. SZE HAI TONG BANKING AND INSURANCE CO., P.C., 700.

See also Banker.

CAMERA, HEARING IN :—

Husband and wife—Nullity suit—Publication of shorthand notes of evidence—Motion to commit—Right of appeal against order to pay costs of motion—“Criminal matter”—Judicature Act, 1873, s.

47.—Except under very special circumstances an order cannot properly be made for hearing an action *in camera*.

It is not a contempt of court, after an order to hear *in camera* has been made and the decree pronounced, to publish privately to persons interested, details of the proceedings.

On a motion by the respondent to commit the petitioner, in a nullity suit heard *in camera*, and her solicitor for contempt of court for circulating copies to three persons of the shorthand notes of the evidence given *in camera*,

Bargrave Deane, J., held that the petitioner and her solicitor had been guilty of contempt, but accepting their apology, he made no order on the motion except that they should jointly and severally pay the costs.

The full Court of Appeal (Vaughan Williams and Fletcher Moulton, L.J.J. dissenting) held (1) that it was a contempt, after an order to hear *in camera*, to publish details of the proceedings which could be punished by committal; and (2) that an order made in a motion to commit for such contempt was a judgment in a criminal matter, which, under section 47 of the Judicature Act, 1873, was unappealable. On appeal,

Held, that the decision of the majority of the Court of Appeal on both grounds was wrong and the appeal was accordingly allowed.—SCOTT v. SCOTT, H.L., 498; 1913, A.C. 417.

CAPITAL OR INCOME :—

Tenant for life and remainderman—Shares in a company subject to the trusts of a will—Apportionment of reserve fund representing undivided profits—Issue of new shares to old shareholders—Option to take up or refuse such shares—Exercise by trustees of option to take up—Bonus dividend applied in payment of the new shares—New shares, whether income or capital.—Where a company under a scheme for apportioning part of their reserve fund, which represented undivided profits, resolved to pay a bonus dividend out of the reserve fund to the shareholders in proportion to the number of their shares, so that each shareholder would get one fully paid new share for each share held by him, and the shareholders could elect to take up the allotment of the new shares or not, such new shares taken up by the trustees of a deceased testator were held to be capital, and not income of his estate.

The rule in *Bouch v. Sproule* (1887, 12 A.C. 385) applied.—RE EVANS, JONES v. EVANS, Neville, J., 60; 1913, 1 Ch. 23.

CHARITY :—

1. *Charitable trust—Fund to provide a sermon—Religious purpose—Surplus income—Application cy-près.*—Money having been left to provide for the preaching of a sermon once a year in the parish church, and the funds having become more than sufficient for that purpose,

Held, that the surplus must be applied to a religious object, and not to the providing of secular discourses for the moral and intellectual benefit of the people, and that the nearest object to the object of the settlor was the maintenance of an assistant curate or curates.—RE AVENON'S CHARITY, Warrington, J., 626.

2. *Will—Construction—Particular charitable intention—Gift for a school—Failure of the particular object—No application cy-près.*—Where there was a bequest of certain property the interest to be paid as salary to the schoolmaster of a school which was to be erected by voluntary contributions, and to be used for teaching particular subjects in a particular manner set out with great specificity and particularity in the will, and where there was no reasonable chance of any such school ever being established, the court was unable to find a general paramount intent to benefit a particular district by charity, and accordingly held that the gift had failed, and that the bequest could not be applied *cy-près*.—RE WILSON, Parker, J., 245; 1913, 1 Ch. 314.

CHARTER PARTY :—See Shipping.

CLUB :—

Expulsion of member—Quasi-judicial functions of committee—Proper application of rules—Right of member to be heard.—The committee of a club, having power to expel a member whose conduct should be injurious to the character and interests of the club, purported to expel a member on the ground that he had failed to pay certain fines with punctuality. It was proved at the trial that the real reason of the expulsion was the alleged failure on the part of the member to comply with a rule requiring that no debts should be incurred at the club. The member was not invited to be present when the committee considered his case.

Held, that the committee of a club is bound to exercise its powers in a judicial manner, and that the ostensible reason for the expulsion of a member must be the real reason.

Held, further, that a member has a right to have his case heard by the committee of a club before they come to a decision against him.—D'ARCY v. ADAMSON, Warrington, J., 391.

COMMONS :—

Common of pasture—Trespass—Injury to herbage by commoner—Right of commoner to maintain action against fellow commoner—Interference with rights—Damage—Injunction.—A commoner can maintain an action against a fellow commoner for trespass in respect of the waste of the manor if it be proved that acts have been committed which amount to a substantial interference with the commoner's rights, and it is not necessary for the plaintiff, in order to succeed in the action, to prove that he personally has suffered pecuniary damage; but an injunction will be granted to restrain the performance or continuance of acts which, if continued, will necessarily prejudice the rights of the commoners.—KING v. BROWN DURANT & Co., Joyce, J., 754.

COMPANY :—

1. *Allotment of shares—Statement in lieu of prospectus—Effect of failure to comply with section 82 of the Companies (Consolidation) Act, 1908 (8 Edw. 7, c. 69), s. 82 (1)—Validity of allotment.*—It being contended that misstatements and omissions in a statement in lieu of a prospectus filed with regard to the formation of a company under section 82 of the Companies (Consolidation) Act, 1908, rendered void or voidable the allotment of shares.

Held, that the allotment of shares was not avoided, but that a shareholder who applied for an allotment of shares on the faith of the filed statement would have the same rights of rescission as a shareholder who had relied on a misleading prospectus.—RE BLAIR OPEN HEARTH FURNACE CO., Warrington, J., 664.

2. *Debenture-holders' action—Appointment of a receiver—Grounds for—What is "jeopardy"?*—The security of the debenture-holders of a company cannot be said to be "in jeopardy" unless there is a risk of some portion of it being seized or taken to pay claims which are not really prior to the claims of the debenture-holders.

The court refused to appoint a receiver on the ground of jeopardy where the debenture-holders merely shewed that their security was wholly insufficient, but could not shew any danger of outside creditors seizing the assets.—RE NEW YORK TAXICAB CO., Swinfin Eady, J., 98; 1913, 1 Ch. 1.

3. *Debentures—Extension of time for registration—Companies Act, 1900 (63 & 64 Vict. c. 48), ss. 14–15—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 286—Interpretation Act, 1889, (52 & 53 Vict. c. 63), s. 38 (2).*—Section 15 of the Companies Act, 1900 (63 & 64 Vict. c. 48) empowered the court to extend the time for the registration of debentures in certain cases. Section 286 of the Companies (Consolidation) Act, 1908, repealed the Companies Act, 1900.

Held, that the right given by section 15 of the Act of 1900 to apply to the court for an extension of time was preserved, notwithstanding the repeal of that Act by the operation of section 38 (2) of the Interpretation Act (52 & 53 Vict. c. 63).—RE LUSH & CO., Farwell, J., 341.

4. *Debentures—Fixtures—Hire-purchase agreement—Priority.*—By an agreement certain fixtures attached to the property of the defendant company were to be paid for by instalments and were to remain the property of the vendors until all the instalments were paid. The company issued debentures which were a floating charge on its property. Default was made in payment of the instalments, and the debenture-holders obtained the appointment of a receiver.

Held, that the vendors were entitled to remove the fixtures, notwithstanding the appointment of the receiver.—RE MORRISON, JONES, & TAYLOR, Eve, J., 463.

5. *Debentures—Floating charge—Pari passu—Without preference or priority—Interest paid to some holders of debentures up to a later date than to others—Distribution of assets in a debenture-holder's action—Property insufficient to pay all debentures and interest in full—Claim by the other debenture-holders to be first paid their arrears of interest in full—Residue then to be divided pari passu.*—Where the property of a company has been sold under the usual order for sale in a debenture-holders' action, and the proceeds of sale are insufficient for the payment in full of the principal and interest secured by the debentures, there is no equity which entitles debenture-holders who have received less interest than others to have the amount of their interest levelled up before any further distribution of assets is made. A company issued a series of debentures, all of which were to rank *pari passu* as a floating charge on the company's property without any preference or priority over one another. Before the charge created by the debentures had become a fixed charge, some of the debenture-holders had been paid their interest down to a later date than others had. The property was insufficient to pay all the principal sums secured and the interest. On an application as to how the available assets should be distributed,

Held, that the amount due to each debenture-holder for principal and interest should be calculated down to the date of the master's certificate, and that the assets should be distributed rateably according to the amounts found due.—*RE MIDLAND EXPRESS, Sargent, J.*, 446; 1913, 1 Ch. 499.

6. Debentures—Winding-up—Debentures payable if order made for winding-up—Right to pay off—Option of creditor—Power of guaranteeing company to redeem.—Where debentures become enforceable on the happening of certain events, but can be only compulsorily redeemed by the company by the payment of a premium thereon, the guarantors of the interest on such debentures can give the usual notice to the debenture-holders, and pay them off their principal and interest, but without being under the necessity to pay them the premium that the company would have to have paid them if they had wished to pay off the debentures before the security became enforceable.—*RE SIMMER AND JACK EAST (LIMITED), Swinfen Eady, J.*, 358.

7. Director—Disqualification of—To be concerned in or participate in the profits of any contract with the company—No profits—Trade discount—Concerned in a contract.—Where a director was under the articles of association of a company to be disqualified from acting as such if he was concerned in or participated in the profits of any contract with the company,

Held, that the director was disqualified when he had been proved to have been concerned in the contract, and accordingly it was not necessary to determine whether he had participated in the profits of such contract or not.—*STAR STEAM LAUNDRY CO. v. DUKAS, Farwell, L.J.*, 390.

8. Director—Managing director—Appointment of—Power of revocation.—The plaintiff was appointed joint-managing director of the defendant company under an agreement, clause 2 of which provided that he "shall hold the said office so long as he shall remain a director of the company, and retain his due qualification, and shall efficiently perform the duties of the said office." The company, by its articles of association, had power to revoke the appointment of managing director, which they purported to do while the plaintiff was fulfilling the conditions provided by clause 2 of the agreement. In an action by the plaintiff for damages for wrongful dismissal.

Held, that the defendants were liable, as the directors could only exercise the power of revocation under the articles when they might legally do so.—*NELSON v. NELSON, K.B.D.*, 501; 1913, 2 K. B. 471.

9. Director—Power to appoint additional directors—General meeting—Requisition convening meeting—Chairman of meeting—Poll.—By the articles of association of a company it was provided that the directors might from time to time appoint additional directors, but so that the total number of directors should not exceed the prescribed maximum. At a general meeting of the company additional directors were appointed.

Held, that the power to appoint additional directors was vested in the board of directors, and could not be exercised by the company in general meeting.—*BLAIR OPEN HEARTH FURNACE CO. v. REIGART, Eve, J.*, 500.

10. Director—Solicitor to company—"Officer" of company—Vacating directorship on accepting any other office.—A solicitor is not an officer of the company unless he is specially retained at a fixed salary.

Where, therefore, the articles of association provide that the office of a director shall be vacated if he accepts any other office under the company, a director who is appointed solicitor of the company does not cease to be director.

Re Liberator Building Society (71 L. T. 406) distinguished.—*RE HARPER'S TICKET, &c., MACHINE, Eve, J.*, 78.

11. Liquidation—Proof in bankruptcy—Partnership—Claim against the partnership as fraudulent promoters of the company—Liability of the partners—Bankruptcy of individual partners—Joint and several liability—Right of double proof—Alleged right of retainer or set-off—Right of election—Distinct contracts—Rule 18, Schedule II, Bankruptcy Act, 1883 (46 & 47 Vict. c. 52).—Rule 18 of the Second Schedule of the Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), dealing with the right to double proof in bankruptcy in certain cases, only applies where the several liability of the partner and the joint liability of the firm arose from distinct contracts.

The case of *Re Parkers, Ex parte Sheppard* (1887, 19 Q. B. D. 84), distinguished.—*RE KENT COUNTY GAS LIGHT AND COKE CO., Neville, J.*, 112; 1913, 1 Ch. 92.

12. Meeting—Poll—Proxies to be lodged forty-eight hours before meeting "or adjourned meeting"—Poll fixed for a future date—Meeting not adjourned—Proxies lodged later than forty-eight hours before the original meeting invalid.—The fixing of a subsequent

date for a poll is not "an adjourned meeting." The actual takings of the poll is not a meeting, but the original meeting continues for the purpose of taking a poll until the poll is closed.—*SHAW v. TATE CONCESSIONS, Swinfen Eady, J.*, 322; 1913, 1 Ch. 292.

13. Memorandum of association—Sale of undertaking for shares—Special resolution necessary to sanction sale—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69).—The sale of the assets and undertaking of a company for shares to be distributed among the shareholders of the original company requires, by virtue of section 192 of the Companies Act, 1908, to be sanctioned by a special resolution of the company, although the memorandum of association of the company provides for the sale of all or part of the company's business or assets to any person or company for cash or shares to be distributed among the shareholders of the company.

Bisgood v. Henderson (1908, 1 Ch. 743) followed.—*ETHERIDGE v. CENTRAL URUGUAY NORTHERN EXTENSION RAILWAY, Joyce, J.*, 341; 1913, 1 Ch. 125.

14. Memorandum shares—Absence of contract as to issue as fully paid—Filing memorandum specifying consideration—Companies Act, 1867 (30 & 31 Vict. c. 131), s. 25—Companies Act, 1898 (61 & 62 Vict. c. 26), s. 1—Companies Act, 1900 (63 & 64 Vict. c. 48), s. 33—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 286—Interpretation Act, 1889 (52 & 53 Vict. c. 63), s. 38, s.s. (2).—The Companies Act, 1898, gave power to the court to grant relief from the inadvertent omission to file at a particular time the memorandum of contract required by section 25 of the Companies Act, 1867. Section 25 of the Companies Act, 1867, was repealed by section 33 of the Companies Act, 1900. The Companies (Consolidation) Act, 1908, repealed the previous Companies Acts, but the provisions of the Act of 1898 were not re-enacted.

Held, that section 38 of the Interpretation Act, 1889, preserved the operation of the Companies Act, 1898, and, in view of the fact that this was a proper case for the court to grant relief under that Act, the court directed that the necessary memorandum should be filed.—*RE WILKINSON SWORD CO., Swinfen Eady, J.*, 340.

15. Misrepresentation—Agreement to take shares—Rectification of register—Alleged fraudulent prospectus—Quotations in prospectus of report by one "acquainted with" the property.—A company, formed for the purpose of acquiring a rubber estate in the Philippines, issued a prospectus in which was quoted a report on the natural advantages of the estate by a gentleman who was then, or subsequently became, a director of the company, and who stated he was well acquainted with the locality. The prospectus also said that no portion of the price of the estate would be paid until the directors had received an independent report confirming the statements of this gentleman. A shareholder, on the faith of the prospectus, took shares. The statements in the report were absolutely false, and he claimed to be repaid the price he had given for the shares. The Court of Session dismissed the action.

Held, that whether at the time the report was made to the company the person who wrote it was or was not a director, it had been set out in the prospectus to induce the appellant to take shares, and to that extent, at any rate, the company had adopted the statements as their own, and were liable to the appellant, who, on the faith of the false misrepresentation contained in the prospectus, had paid his money for shares which were worthless.

Decision of Court of Session, (1913, S. C. 183) reversed—*MAIR v. RIO GRANDE RUBBER ESTATES (LIMITED), H.L.*, 728.

16. Promoters—Lease agreed to be granted—Sale of same to company—No binding agreement at the time of the sale—Lease afterwards granted—Fiduciary position—Vendors or trustees—Claim by the company to apportion the contract.—Whether promoters are in fact acquiring assets as trustees for a company or not is a question of fact, and where, as in the present case, they were to sell to the intended company the assets which they were acquiring, the natural inference is that they are intending to occupy towards the company the relationship of vendors.

Where there were proposals for a lease not yet enforceable at law the promoters were held not liable to make good to the company such part of the purchase money of a lease subsequently acquired as was attributable to "the benefit of the lease agreed to be granted," even if such proposals were accurately described as a "lease agreed to be granted," which the court did not admit. If any objection could be taken at all it must be taken to the whole agreement, and a right of apportionment could not be claimed.—*OMNIUM ELECTRIC PALACES v. BAINES, Sargent, J.*, 754.

See also Assurance Company, Receiver, Revenue.

17. Reduction of capital—Form of minute—Forfeited shares—Denoting numbers of forfeited shares must be stated in minute—Companies (Consolidation) Act, 1908 (1 Ed. 7, c. 69), s. 51.—A company had power under its articles to reissue forfeited shares as paid up to the amount which had been paid or as wholly un-

paid. The company resolved to reduce its capital by writing off lost capital, including five shares on each of which 2s. 6d. had been paid, but which had been forfeited for non-payment of calls.

Held, that the numbers of these five shares must be set out in the minute confirming the reduction of capital.

Re The Oceana Development Co. (Limited) (56 SOLICITORS' JOURNAL, 537) followed.—*RE THOMAS WOLF & SON, Neville, J.*, 146.

18. *Reduction of capital—Use of words "and reduced" on the common seal.*—On a petition to confirm a reduction of the capital of a company, the court dispensed with the use of the words "and reduced" on the common seal of the company.—*RE ANDREW KNOWLES & SONS, Neville, J.*, 212.

19. *Reorganization of capital—Partly paid shares—Sub-division of—Division of unissued preference shares—Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), ss. 41-45.—In a reorganization of share capital, in accordance with the provisions of section 45 of the Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), a company may divide each of its £1 preference shares, on which 15s. is paid, into two different shares of 10s., called respectively the A preference shares and the B preference shares, and may treat the A preference shares as being fully paid and the B preference shares as being 5s. paid and 5s. uncalled.—*RE VINE AND GENERAL RUBBER TRUST (LIMITED), Neville, J.*, 610.

20. *Shares in private company—Right of pre-emption in others—Apportionment—Legacy in lieu of shares—Apportionment Act, 1870* (33 & 34 Vict. c. 35), ss. 2 and 5—*Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), s. 121.—A private company for the purposes of the Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), is nevertheless a public company for the purposes of the Apportionment Act, 1870 (33 & 34 Vict. c. 35), s. 5. Where the articles of association of a private company gave certain rights of purchase of shares to certain members of the family of a testator who owned the large majority of the shares in the company, such testator could not dispose of his shares in the company in another manner by his will.—*RE WHITE, THEOBALD v. W., Neville, J.*, 212; 1913, 1 Ch. 231.

21. *Voluntary winding-up—Application for rescission of contract between the promoters and the company—Jurisdiction—Cancellation of the shares—Consideration for the contract—Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), ss. 164, 193, and 215.—The court refused to consider the question of setting aside an agreement which was in effect made between a company and outsiders on an application by summons by a liquidator in a voluntary winding-up, under section 193 of the Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69).

Quare, whether there would be jurisdiction under such section to set aside such an agreement.—*RE CENTRIFUGAL BUTTER CO., Neville, J.*, 211; 1913, 1 Ch. 188.

22. *Voluntary winding-up—Unsuccessful action brought by company—Defendant's costs ordered to be paid either by the company or by the liquidator—Liquidator to recoup himself out of the assets—Priority of costs—Compulsory and voluntary winding-up.*—Where the liquidator of a company in voluntary liquidation brings an action, and judgment is given for the defendant in that action, with costs, such costs are payable out of the assets of the company, in priority to the costs of the winding-up.—*RE PACIFIC COAST SYNDICATE, Neville, J.*, 518; 1913, 2 Ch. 26.

23. *Winding-up—Action pending in King's Bench Division against company and others—Transfer to winding-up judge—Jurisdiction—Practice—Companies (Winding-up) Rules, 1909, r. 42.—Rule 42 (1) of the Winding-up Rule, 1909, provides that "Where an order has been made in the High Court for the winding-up of a company, the judge shall have power, without further consent, to order the transfer to him of any action, cause, or matter pending in any other court or division brought or continued by or against the company, and any action or proceeding by a mortgagee or debenture holder of the company against the company for the purpose of realizing his security, or by any other person for the purpose of enforcing a claim against the company's assets or property, which is pending in the High Court, or before any judge thereof, shall without further order be transferred to the judge of the High Court."*

Held, affirming *Neville, J.*, 1912, W.N. 285, that the above rule gave the court jurisdiction to transfer a pending action, not only where the company was the sole defendant, but also where there were other defendants as well as the company.—*RE PACAYA RUBBER AND PRODUCE CO., C.A.*, 143; 1913, 1 Ch. 218.

24. *Winding-up—Company limited by guarantee and not having its capital divided into shares—Contributors—Memorandum and articles of association—Construction—Directors to be ex-officio "members"—Whether liable as contributors—Summons to vary—Companies Act, 1862* (25 & 26 Vict. c. 89), ss. 9 (4) and 23,

Schedule II, Form B—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), ss. 24 and 118, *Schedule III, Form B.*—Some managers and directors of certain shipping companies had become directors of a marine insurance company, limited by guarantee, but had never held any policies with that company, which had now gone into voluntary liquidation.

Held that, considering the nature of the marine insurance company, these directors, although stated to be *ex-officio* members of the company, were not members with the liabilities of ordinary members, and that, accordingly, their names ought not to have been placed on the list of contributors by virtue only of their being directors of the marine insurance company. This decision was to be without prejudice to the liquidator's right to put these applicants, or any of them, on the list of contributors in any other capacity if he should subsequently decide to do so.—*RE PREMIER UNDERWRITING ASSOCIATION, EX PARTE CORY, Neville, J.*, 594; 1913, 2 Ch. 81.

25. *Winding-up—Company limited by guarantee and not having its capital divided into shares—Past and present members—List of contributors—"A" List—"B" List—Companies Act, 1862* (25 & 26 Vict. c. 89), ss. 9 (4) and 38.—Section 38, sub-section 3, of the Companies Act, 1862 (25 & 26 Vict. c. 89), which provides that no past member of the company shall be liable to contribute to the assets of the company in winding-up, unless it appears that the existing members are unable to satisfy the contributions required, applies to companies limited by guarantee, and accordingly, where the liquidator had placed both past and present members of the company limited by guarantee on one list of contributors, a past member was entitled to have his name removed therefrom.—*RE PREMIER UNDERWRITING ASSOCIATION, EX PARTE GREAT BRITAIN MUTUAL MARINE ASSOCIATION, Neville, J.*, 594; 1913, 2 Ch. 29.

26. *Winding-up—Preferential claims—Director—Clerk or servant—Company publishing a journal—Contributors—Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), s. 209 (1) b—*"Dress Editress"*—*Seat in the office.*—A lady was employed as "dress editress" of a paper at a salary of £312 per annum, and her business was to visit shops and write dress articles for the paper, and she had a seat in the office. The paper was run by a company, of which the lady was a director. The articles of association of the company allowed a director to accept employment in the company. In the winding-up of the company it was held that this lady was, notwithstanding her position as director, a clerk or servant of the company within the meaning of section 209 (1) (b) of the Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), and was accordingly entitled to priority in respect of the payment of her salary.

A person supplying sketches and a person having charge of the cookery department of the paper, neither of whom had a seat in the office, but both of whom were definitely appointed to their situations and subject to give notice if they wished to leave, were both held not to be clerks or servants within the meaning of the said section.—*RE BEETON & CO., Neville, J.*, 626.

27. *Winding-up—Scheme of arrangement—Guarantee policy—Contract therein to pay the amount of principal and interest due on the mortgage on default of the mortgagor—Not a contract of indemnity—Costs—Mortgagee's costs added to his principal.*—Where a guarantee society contracted to pay the principal and interest due on a mortgage on the mortgagor making default in payment thereof, it was held that the guarantee society did not contract to indemnify the policy-holder against any loss under her security, and accordingly, that in the winding-up of the guarantee society the costs of valuing her security and proving her claim came under the heading of mortgagee's costs or costs of proof, and must be disallowed because under the winding-up rules creditors are not entitled to the costs of proving their claim.—*THE LAW GUARANTEE TRUST AND ACCIDENT SOCIETY, Neville, J.*, 628.

28. *Winding-up—Summons by receiver to approve conditional contract for sale—Petition by liquidator to sanction scheme of arrangement—One order on the two applications.*—Where a company is in liquidation and a receiver has been appointed in a debenture-holders' action and there is before the court both a petition by the liquidator to sanction a scheme of arrangement and a summons by the receiver to approve a conditional contract of sale, one order can be made on the two applications.—*RE DURHAM COLLIERIES ELECTRIC POWER CO., Neville, J.*, 558.

29. *Winding-up—Unregistered association—Companies (Consolidation) Act, 1908* (8 Ed. 7, c. 69), ss. 267, 268.—A society which has never been registered under any of the Friendly Societies Acts, or under any of the Companies Acts or otherwise, can be wound up by the court under sections 267 and 268 of the Companies (Consolidation) Act, 1908, and this can be done even after an action has been commenced in the Chancery Division for administration

of the trusts of the society.—*RE KNOTTINGLEY LOYAL VICTORIA SOCIETY*.—*Neville, J.*, 129; 1913, 1 Ch. 167.

30. *Debentures—Reserve fund the only asset—Proposed distribution amongst shareholders—No default under debentures—Debenture-holders' action—Jeopardy—Receiver—Injunction*.—There is jeopardy where practically the only assets of a company consist in its reserve fund, and the company proposes to distribute that among its shareholders without making provision for its debenture-holders.

In such a case, where nothing had otherwise occurred to make the debenture security enforceable, Neville, J., appointed a receiver, and this *ipso facto* made the debenture security enforceable.—*RE TILT COVE COPPER CO. (LIMITED), TRUSTEES, EXECUTORS, AND SECURITIES INSURANCE CORPORATION (LIMITED) v. THE COMPANY*, *Neville, J.*, 773.

CONFLICT OF LAWS :—

Action pending abroad—Stay of proceedings in England—Forum conveniens—Construction of English document—Succession on death determinable by foreign law.—An Englishwoman, the widow of an Italian, died, leaving a letter in English, which would be a valid will by Italian law if it contained a gift of the whole or a definite part of her property. There was no dispute as to the law applicable, but there was a danger that the court in Italy might be misled as to the meaning of the letter. Proceedings were pending in both countries to establish the letter as a will.

Held, that the English proceedings ought not to be stayed pending the decision of the Italian Court.—*RE BONNEFOI*, *C.A.*, 62; 1912, P. 233.

See also *Divorce*.

COPYRIGHT :—

Stage play—Similar title—Common words used with special meaning.—The plaintiff was the owner of the copyright of a play entitled “Where There's a Will There's a Way.” The defendant, produced a play, entitled “Where There's a Will—”. There was no allegation of an infringement of copyright with regard to the substance of the plays, but in each the progress of the plot gave to the word “will” in the title the peculiar meaning of testament.

Held, that the peculiar significance of the words did not render a common phrase a subject of copyright.—*BROAD v. MEYER, Warrington, J.*, 145.

CORPORATION :—

Road and drainage authority—Flooding—Negligence—Reparation—Edinburgh Corporation Act, 1900 (63 & 64 Vict. c. xxixii.), s. 28.—The drainage and sewage from a portion of the City of Edinburgh flowed into a burn, which for part of its course formed the southern boundary of the Craignentiny Estate. When the district, which included the pursuer's market garden, was annexed to the City of Edinburgh by the Edinburgh Corporation Act, 1900, it was provided by section 28 that the corporation, who were the drainage authority, should not have power to diminish the supply of sewage water flowing through the burn, and used for irrigating the estate or to deepen or otherwise interfere with the burn so far as passing through the estate. On two occasions in 1909, after a heavy rainfall, the burn had flooded the market gardens. Since 1900 there had been no increase in the quantity of sewage or surface water discharged into the burn, but in consequence of building and paving operations, which had gradually rendered a greater portion of the surface of the drainage area impervious, the surface water found its way more quickly into the burn.

Held, that the owner of the market garden was entitled to recover damages from the corporation.

Decision of the Second Division of the Court of Session on the question of liability reversed, and that of the Lord Ordinary, awarding the pursuer £150, restored.—*HANLEY v. EDINBURGH CORPORATION, H.L.*, 400.

See also *Revenue*.

COSTS :—

1. *Appeal to House of Lords—Issues decided against appellant—Appeal as to one issue only—Set-off of costs ordered to be paid at trial—Motion to make lord's decree an order of High Court*.—On a motion to make a decree of the House of Lords an order of the High Court, when the decree appears on its face to deal with all the costs of the action, the court has jurisdiction to set off from the costs payable to the successful appellant under the decree, the costs of issues upon which he failed at the trial, and which he did not raise upon the appeal.—*DEELEY v. LLOYD'S BANK (No. 2)*, *C.A.*, 158.

2. *Certificate for special jury—Time—“Immediately after verdict”—Juries Act, 1825, s. 34*.—Upon the trial of an action with

a special jury the application to the judge for certificate that the case was proper to be so tried must be made as soon as necessary circumstances will permit after the verdict. A certificate granted three months after verdict held not to be justified.—*BARKER v. LEWIS*, *C.A.*, 577; 1913, 3 K. B. 34.

3. *Set-off—Workmen's compensation appeal—Set-off of costs of appeal against county court costs—Jurisdiction*.—There is no jurisdiction to order a set-off of costs of an appeal from the county court to the Court of Appeal against costs of the hearing or rehearing, when remitted, and the court cannot, after judgment has been given, order the costs of an appeal under the Workmen's Compensation Act to be costs in the arbitration, so as to enable the costs to be set off in the county court.—*BARNETT v. PORT OF LONDON AUTHORITY*, *C.A.*, 577; 1913, 2 K. B. 115.

4. *Taxation—Counsel's fees—Three counsel—Special circumstances—Country solicitor—Attendance at trial in London—Allowance of expenses—R. S. C. LXV. 27 (29)*.—In a passing-off action the plaintiffs alleged fraud against the defendants. There was a large amount of evidence, including a great number of exhibits, and the action lasted ten days. On taxation the taxing master disallowed the costs of three counsel and of the attendance of the country solicitor at the trial in London. On a summons to review the taxation,

Held, that the court ought not to overrule the discretion of the taxing master, and that the summons must be dismissed on both points with costs.—*PERRY & Co. v. HESSIN & Co., Eve, J.*, 302.

See also *Solicitor*.

COUNTY COURT :—

1. *Practice—Agreement to pay costs—Bill of costs untaxed—Power to sue upon—Solicitors Act, 1843 (6 & 7 Vict. c. 73), ss. 37, 38 and 41*.—The plaintiff and the defendant by an agreement contracted, *inter alia*, that the defendant should pay certain costs to the plaintiff. The defendant's solicitors sent in the bill to the plaintiff, who paid it, but as to a part of it under protest, stating that the agreement did not cover certain items, for the recovery of which she subsequently brought an action in the county court. The defendant put in a special defence to the effect that as the plaintiff had not taken any steps to tax the bill pursuant to the Solicitors Act, 1843, ss. 37, 38 and 41, the action was not maintainable. The county court judge upheld this view, and refused to try the action.

Held, that he was wrong, and that he had jurisdiction to try the action.—*MOSLEY v. KITSON, K.B.D.*, 12.

2. *Practice and procedure—Promissory note—Payable at a particular place—Necessity for pleading*.—In an action as to a promissory note in the county court the defendant wished to take the point that the note was payable at a particular place and that it had not been duly presented for payment. The county court judge held that this was a statutory defence and that, as no notice had been given of it, the defendant could not take the point.

Held, that by virtue of section 87 of the Bills of Exchange Act, 1882, due presentment for payment was of the essence of the plaintiff's cause of action, and so was not a statutory defence of which the defendant need give notice.—*PRITCHARD v. COUCH, K.B.D.*, 342.

3. *Practice and procedure—Taxation between party and party—Allowance for two counsel—Power to make such allowance*.—On a taxation of costs in the county court between party and party pursuant to the County Court Rules, 1903-4, the registrar has no power to allow items for fees for more than one counsel.—*BATES v. GORDON HOTELS, K.B.D.*, 303; 1913, 1 K. B. 631.

See also *Costs*.

COVENANT :—

1. *Building scheme—Restrictive covenants—Trade—Change in character of neighbourhood—Acquiescence—Fried fish shop*.—Purchasers of land laid out upon a building scheme in 1862 covenanted to observe certain stipulations, one of which prohibited any trade or manufacture from being carried on upon the estate. Subsequent purchasers of other land on the estate purchased with notice of and subject to this covenant. One of them had permitted four houses upon land purchased by him to be turned into shops.

Held, that, in the circumstances, his executors were entitled to restrain a purchaser from him from carrying on the trade of a fried fish vendor on his premises, in breach of the original covenant.

To disentitle an owner to enforce a restrictive covenant it is not sufficient to establish a change in the character of the neighbourhood without positive evidence of personal acquiescence in the change on the part of the person seeking to enforce the covenant.—*PULLEYNE v. FRANCE*, *C.A.*, 173.

2. *Restraint of trade—House agent—Carrying on business—Prohibited area—Dealing with property within radius from office outside—Interim injunction.*—In partnership articles relating to a business of auctioneers, house agents, and valuers the defendant covenanted not to engage in any business competing with that of the partnership within a radius of one mile from the firm's business premises for a period of ten years from a dissolution. After a dissolution had taken place the defendant took an office just outside the mile radius, and proceeded to do business as a house agent with persons residing within it, and to advertise houses to be let or sold within it, systematically.

Held (reversing the decision of Eve, J.), that the defendant had committed a breach of the covenant, and ought to be restrained by an interim injunction until trial.

Woodbridge v. Bellamy (55 SOLICITORS' JOURNAL, 204; 1911, 1 Ch. 326) distinguished.—*DAYER-SMITH v. HADSLEY, C.A.*, 555.

See also *Landlord and Tenant, Settlement, Vendor and Purchaser.*

CRIMINAL LAW :—

1. *Indictment—Charging three larcenies against the same person in three counts—Another prisoner charged in one of the counts—Larceny Act, 1861 (24 & 25 Vict. c. 96), s. 5.*—An indictment charging a prisoner with two distinct acts of stealing within six months from the same person in three counts pursuant to section 5 of the Larceny Act, 1861, is bad if it charges another prisoner in one of the counts only. Accordingly, in such a case, where motion had been duly made to quash the indictment, and the court had refused to quash it or the count in which the two prisoners were charged with larceny, or to call upon the prosecution to elect upon which of the counts they would proceed, the Court of Criminal Appeal quashed the convictions on the indictments.—*REX v. GILBERT, C.C.A.*, 187; 1913, 1 K. B. 287.

2. *Living in part on earnings of prostitution—Power to order whipping on second conviction—First conviction not on indictment—Criminal Law Amendment Act, 1912 (2 & 3 Geo. 5, c. 20), s. 7, sub-section 5.*—In order to give power to the court to order a person to be whipped who has been convicted on indictment of an offence under the Vagrancy Act, 1898, after a previous conviction for the same offence, the previous conviction need not itself have been a conviction on indictment.—*REX v. AUSTIN, C.C.A.*, 287; 1913, 1 K. B. 551.

3. *Misappropriation of funds—Fiat of Attorney-General—Larceny Act, 1861 (24 & 25 Vict. c. 96), s. 80—Larceny Act, 1901 (1 Ed. 7, c. 10), s. 1 (1) (a).*—The treasurer of a slate club, who was paid about £1 for his services, was convicted under section 1 (1) (a) of the Larceny Act, 1901, of fraudulently converting the funds of the club to his own use. The point was taken that by virtue of section 80 of the Larceny Act, 1861, the conviction was bad, as the prosecution had been instituted without the fiat of the Attorney-General in accordance with the proviso to that section.

Held, that section 80 of the Larceny Act, 1861, applied only to the persons expressly excluded from the operation of section 75 of that Act—since repealed—trustees in the ordinary sense of the word, and that the prosecution of the appellant under section 1 (1) (a) of the Act of 1901, was not for any offence “included” in section 80 of the Act of 1861, within the meaning of the proviso to that section.—*REX v. DAVIES, C.C.A.*, 376; 1913, 1 K. B. 573.

4. *Misdemeanour—Recognition to be of good behaviour—Power to order without limitation of time—Practice.*—In cases of misdemeanour, where a convicted person is ordered to enter into a recognisance to be of good behaviour, the practice has been to specify a limitation of time, and that practice should be followed.

The court said it was unnecessary to decide, and did not decide, whether there was power to order such a person to enter into a recognisance to be of good behaviour without specifying any period of time.—*REX v. EDGAR, C.C.A.*, 519.

5. *Procedure—Quarter sessions—First and second courts—Trial in second court—Discharge of jury by justices in first court—Prisoners not present when jury discharged.*—The absence of the prisoner does not invalidate the discharge of a jury.

When a prisoner had been tried in a second court at quarter sessions and the jury had retired they were sent for into the first court, and, on stating that they were unable to agree, discharged by the chairman of the first court, who had not tried the case in the second court.

Held, that the jury had been duly discharged by the court of quarter sessions, and that it must be assumed that the court was properly constituted with two or more justices.—*REX v. RICHARDSON, C.C.A.*, 247; 1913, 1 K. B. 395.

6. *Procuring woman to become a common prostitute—Arrest before commencement of Act authorizing punishment of whipping—“Proceedings pending at the commencement of this Act”—Cri-*

mal Law Amendment Act, 1912 (2 & 3 Geo. 5, c. 20), s. 8.—The appellant was arrested and charged before the Criminal Law Amendment Act, 1912, came into force, on a charge of procuring a woman to become a common prostitute. Section 3 of the Act makes this offence punishable by whipping. Section 8 provides that the Act shall not apply to “proceedings pending at the commencement of this Act.”

Held, that the proceedings against the appellant were pending at the commencement of the Act, and that the court, on the trial after the Act came into force, had no power to pass a sentence of whipping.—*REX v. O'CONNOR, C.C.A.*, 287; 1913, 1 K. B. 557.

7. *Sentence—Remainder from last sentence—Fresh conviction—Prisoner now bound over—Revocation of licence—Penal Servitude Act, 1853 (16 & 17 Vict. c. 99), ss. 9 and 11—Penal Servitude Act, 1864 (27 & 28 Vict. c. 47), ss. 4, 5, and 9.—R., at the time he committed the crime of arson, was a convict on licence, with a remanent of one year and ninety-five days of his last term of penal servitude unexpired. R. pleaded guilty.*

Held, that if R. was bound over to come up for judgment if called upon, his licence would be revoked, and he should be kept in custody to serve the remanent of his last sentence.

Accordingly Circular L.P. 15, 1912, dated the 8th of November, 1912, and issued from the Prison Commission to the Governors of Prisons, is erroneous. This circular directed the governors immediately to release a prisoner on licence who was bound over after a verdict or plea of guilty upon the ground that his licence was not forfeited, as the conviction was not complete until judgment had been passed.—*REX v. RABJOHNS, C.C.A.*, 665.

8. *Sentence of birching—Validity of—“Rogue and vagabond”—Mal: person soliciting for immoral purposes—Twice convicted—Sentenced at quarter sessions as incorrigible rogue—Vagrancy Act, 1824 (5 Geo. 4, c. 83), ss. 4, 5, and 10—Vagrancy Act, 1898 (61 and 62 Vict. c. 39), s. 1 (1) (b).*—A male person twice convicted under section 1 (1) (b) of the Vagrancy Act, 1898, of persistently soliciting or importuning for immoral purposes in a public place may be sentenced by quarter sessions under section 10 of the Vagrancy Act, 1824, to a whipping.

These three appellants having each been convicted of two offences under section 1 (1) (b) of the Vagrancy Act, 1898, were sent to quarter sessions for sentence as “incorrigible rogues.” They were each sentenced under section 10 of the Vagrancy Act, 1824, to nine months’ imprisonment with hard labour, and to twenty-five strokes with the birch rod.

Having petitioned the Home Secretary to remit that part of the sentence ordering them a birching on the ground that this part of the sentence was invalid, the Home Secretary referred the case to the Court of Criminal Appeal.—*REX v. HERION, C.C.A.*, 130; 1913, 1 K. B. 284.

9. *Shop-breaking—“Breaking”—False key used—False key obtained from servant of occupier—Servant’s action known and approved by occupier—Object to catch the thief.*—A pawnbroker’s assistant, with the knowledge and approval of his master, lent the appellant a key of his master’s shop, from which the appellant obtained an impression, and so a false key. On a day arranged between the appellant and the servant, with the knowledge of his master, the appellant entered the shop by means of the false key with intent to steal, and was arrested on the premises by the police.

Held, that the appellant had “broken into” as well as entered the shop.

REY v. JOHNSON, 1841 (Car. & Marsh, 218), distinguished.—*R. v. CHANDLER, C.C.A.*, 160; 1913, 1 K. B. 125.

DEED :—

Delivery—Invalid deed—Subsequent acknowledgment—Evidence of intention.—Where a deed of gift executed by attorney under a power which does not authorize the execution of such a deed, is afterwards shewn to the grantor and acknowledged and treated as a valid deed, and the grantor acts as if the property comprised therein had duly passed to the grantee, the court may infer that there has been a re-delivery as at the date of the acknowledgment, and that the grantor is bound thereby, and it is not necessary to shew that at the date of the acknowledgment the grantor knew that he was not already bound.—*RE SEYMOUR, C.A.*, 321; 1913, 1 Ch. 475.

DEFAMATION :—

Words not actionable per se—Malicious falsehoods—Special damage—Loss of business—Evidence—Pleading.—In an action for damage to a business caused by malicious falsehoods where the words are not defamatory nor actionable *per se*, the plaintiff must prove actual loss of customers to whom the words were spoken, and cannot as a rule give evidence of a general decline of business.

Quere, whether on proof of actual loss the jury might award damages in excess of such actual loss, by way of punishment or example.

Ratcliffe v. Evans (1892, 2 Q. B. 524) applied.—*LEETHAM v. RANK, C.A.*, 111.

See also *Libel*, Trade Union.

DISCOVERY.—See Practice.

DIVORCE.—

1. *Appeal from registrar—Petition for restitution of conjugal rights by wife—Answer by husband alleging adultery—Reply by wife alleging adultery—Compensatio criminis—Paragraphs in reply struck out—How court acts where parties are in pari delicto.*—The court will not grant a decree of restitution of conjugal rights to a petitioner who has been guilty of adultery.

The case of *Seaver v. Seaver* (2 Sw. and Tr. 665, appendix) not approved of.—P. v. P., P.D. 188; 1913, P. 80.

2. *Conflict of laws—Foreign nullity of English marriage—Marriage in England of domiciled Frenchman and Englishwoman—Marriage invalid by French law—Separate domicil of wife—Jurisdiction—Decree.*—A woman domiciled before her marriage in England, who has contracted in England a marriage valid in English law with a domiciled Frenchman, and has thereby acquired his domicil, may, after she is debarred from obtaining relief in France by a decree of nullity of the marriage pronounced there by a court of competent jurisdiction, petition the court of her original domicil, and obtain a decree dissolving the marriage.

The position is intolerable for the wife, and an exception may, if necessary, be made from the ordinary rule of domicil governing such cases.—*DE MONTAIGU v. DE MONTAIGU*, P.D., 703.

3. *Custody of child—Right of access of divorced mother—Age of child—Discretion of court—Mother living in adultery.*—Although the former rule that a guilty mother who has been divorced by her husband cannot be allowed access to the child of the marriage against the husband's wish is no longer the law, the court has a discretion to permit such access. Where the child was a boy eight years of age, about to be sent to school, and the mother was living in adultery with the co-respondent, the court refused to order that she should be allowed access.

Decision of Sir Samuel Evans, P., reversed.

Stark v. Stark (1910, P. 190) distinguished.—*CLARKE v. CLARKE, C.A.*, 644.

4. *Husband's petition—Wife's plea of connivance—Liability of party making such allegation to be cross-examined as to adultery, notwithstanding provisions of Evidence Further Amendment Act, 1869 (32 & 33 Vict. c. 68), s. 3*—Where in a divorce suit a respondent made a counter charge of connivance against her husband, the court permitted her to be cross-examined as to her own adultery, although she had not previously denied it.—*DENNYS v. DENNYS*, P.D., 61.

5. *Decree nisi to husband—Intervention by King's Proctor—Adultery by petitioner—Plea of condonation—Matrimonial Causes Act, 1857 (20 & 21 Vict. c. 85), s. 31—Discretion of court considered—Decree nisi rescinded.*—Where there are no special or aggravating circumstances, nor strong overriding public reasons existing, the court should exercise its discretion in favour of a petitioner whose adultery during the marriage has been fully forgiven and completely condoned by the respondent. But where a husband had not disclosed the fact of his own adultery on the hearing of his petition for divorce, and had denied it on oath after the King's Proctor had intervened, the court rescinded the decree *nisi*, remarking that, even if satisfied that the adultery had been condoned, it would not have exercised its discretion in his favour.—*MUNZER v. MUNZER*, P.D., 45.

6. *Intervener—"Opposite party"—Restraint on anticipation—Jurisdiction to extend previous order.*—Where a woman named in a wife's petition for divorce obtained the leave of the court to intervene and defend herself from a charge of adultery and was successful,

Held, that she was an "opposite party" to the petition within the meaning of the Married Woman's Property Act, 1893, s. 2, and was entitled to an order for the payment of her costs out of the wife's settled property.—*STUDLEY v. STUDLEY*, C.A., 425; 1913, P. 119.

7. *Judicial separation—Claim for damages in answer—Matrimonial Causes Act, 1857 (20 & 21 Vict. c. 85), ss. 22 and 33—Matrimonial Causes Act, 1866 (29 & 30 Vict. c. 32), s. 2.*—A husband, in his answer to his wife's petition for judicial separation, which he resists on the ground of her adultery, may claim damages against the alleged adulterer.—*N. v. N.*, P.D., 343; 1913, P. 75.

8. *Judicial separation—Husband's petition—Cross charge by wife and prayer for judicial separation—Non compliance by*

husband with order to secure wife's costs—Writ of attachment granted.—Where the court was not satisfied that a husband petitioner was unable to comply with an order to secure a sum for the payment of his wife's costs of and incidental to the hearing of the cause, a writ of attachment was allowed to issue.

Clark v. Clark (1891, P. 278) not approved.—*JONES v. JONES*, P.D., 10; 1913, P. 295.

9. *Nullity—Marriage after banns—Evidence of non-residence of parties in Paris in which banns were published inadmissible—Statute—Marriage Act, 1823 (4 Geo. 4, c. 76), s. 26.*—In a suit for nullity on the ground that the marriage, a marriage after banns, was null and void because, at the time, the parties were not resident in the parish in which the banns had been published, no evidence of such non-residence can be given.—*BODMAN v. BODMAN*, P.D., 359.

10. *Permanent maintenance—Registrar's report recommending quarterly payments during joint lives—Matrimonial Causes Act, 1907 (7 Ed. 7, c. 12), s. 1, sub section (2)—Decree not made absolute—Order nunc pro tunc for monthly payments.*—The court has power, under the provisions of the Matrimonial Causes Act, 1907, to make an order for the payment by a husband to his wife during their joint lives of a weekly or monthly sum of money, and such order may be made before decree absolute by way of confirmation of the usual registrar's report recommending such an order, such confirmation to be *nunc pro tunc*, and the order made operative as from the date of the decree absolute.—*CAVENDISH v. CAVENDISH*, P.D., 741.

11. *Petition for divorce—No addresses where parties cohabited given—Refusal of certificate of completion by registrar—Application to enter case as on date of refusal granted.*—Where a registrar had refused a certificate owing to a petition not setting out the addresses where the parties thereto had cohabited, and had thereby caused the case to be too late for insertion in the next term's list, the court, while refraining from laying down any rule, ordered the case to be entered as on the date when the certificate was refused.—*LAWTON v. LAWTON*, P.D., 61.

12. *Restitution of conjugal rights—Practice—Divorce Rules and Regulations, r. 175—Written demand for cohabitation and restitution of conjugal rights.*—In a suit for restitution of conjugal rights the written demand for cohabitation and restitution of conjugal rights referred to in rule 175, written by the petitioner, or by a solicitor on behalf of the petitioner, must be couched in friendly terms, and must not contain anything in the nature of a threat. In such cases the spirit and not the letter of rule 175 must be observed.—*NEUMANN v. NEUMANN*, P.D., 228.

13. *Restitution of conjugal rights—Practice—Non-cohabitation order—Section 7, Summary Jurisdiction (Married Women) Act, 1895 (58 & 59 Vict. c. 16).*—A wife who has been deserted by her husband and has obtained from the magistrates an order against him for maintenance under the Summary Jurisdiction (Married Women) Act, 1895, in which order a clause has been inserted, without her knowledge or approval, that he "be no longer bound to cohabit with her," must, before filing her petition for restitution of conjugal rights, apply to the magistrates under section 7 of the same Act for the discharge of such order.—*NILAND v. NILAND*, P.D., 248.

14. *Restitution of conjugal rights—Refusal of husband to comply with decree—Periodical payments—Duration of period of payment for joint lives or for wife's life a matter for discretion of the court—Matrimonial Causes Act, 1884 (47 & 48 Vict. c. 68), s. 2.*—By the Matrimonial Causes Act, 1884 (47 & 48 Vict. c. 68), the court may, after a decree for restitution of conjugal rights upon the application of the wife, order that, if he does not comply with the decree, the respondent shall make to the petitioner such periodical payments as may be just. The time during which such payments shall be ordered to be made, whether for the joint lives of the spouses, or for the life of the wife, is entirely a matter for the discretion of the court.—*CLUTTERBUCK v. CLUTTERBUCK*, P.D., 463.

15. *Restitution of conjugal rights—Service of petition and citation upon respondent out of the jurisdiction—Leave to serve not applied for—Decree granted.*—Where a sealed copy of a petition for the restitution of conjugal rights and a copy of the citation had been duly served upon the respondent, then resident in Ireland,

The court granted a decree, although no leave had been previously obtained for service out of the jurisdiction.

Bateman v. Bateman (1901, P. 136) not followed.—*BUCKLEY v. BUCKLEY*, P.D., 9.

16. *Wife's petition—Agreement to institute proceedings in consideration of increased allowance—No collusion.*—Where a wife was offered, and accepted, an increased allowance from her

husband if she would file a petition for dissolution of her marriage with him, and information upon which she might procure evidence to found her petition was afforded her.

Held, that this was not a collusive arrangement between the petitioner and the respondent.—*SCOTT v. SCOTT, P.D.*, 227 ; 1913, P. 52.

17. *Wife's petition—Decree nisi—Motion for injunction to restrain husband from dealing with his property pending hearing of petition for permanent maintenance—No subsisting order for payment of fixed sum—Injunction refused.*—The court will not, in order to protect a wife's right to permanent maintenance, restrain a husband from dealing with his property before an order for permanent maintenance has been made. The principle laid down in *Newton v. Newton* (34 W. R. 123 ; 1885, 11 P. D. 11) is of general application, and not confined to alimony pending suit.—*BURMESTER v. BURMESTER, P.D.*, 392 ; 1913, P. 76.

18. *Wife's petition—General allegations of cruelty and adultery—Particulars of the charges served on respondent—Charge of communicating venereal disease—Practice as to pleading.*—When a charge of wilfully communicating a venereal disease is relied upon it should be specifically pleaded in the petition.

The case of *E. v. E.* (1907, 23 T. L. R. 364) distinguished.—*WALKER v. WALKER, P.D.*, 175.

19. *Wife's petition—Husband domiciled in foreign country—Decree of nullity obtained by husband abroad—Wife's domicil considered—Decree nisi granted to wife.*—Where a marriage solemnized in England between a woman domiciled in this country and a man domiciled in a foreign country had been annulled by a proper court of the husband's domicil as being not in accordance with the law of that country, and where the wife petitioned for a divorce on the ground of his desertion and adultery, it was held, notwithstanding that the marriage was still valid in England, that the court could grant her a decree *nisi* dissolving the marriage.

Oyden v. Oyden (1908, P. 46) considered and applied.—*STATHATOS v. STATHATOS, P.D.*, 114 ; 1913, P. 46.

20. *Wife's petition—Nullity—Bigamy—Application for decree absolute—Delay.*—Delay in application is, in the absence of other reasons, no ground for refusing a decree absolute, where the only result would be to put the petitioner to the further expense of commencing proceedings afresh, and filing another petition.—*GIANNETTI (OTHERWISE GRANT) v. GIANNETTI, Evans, P.*, 774.

See also Settlement.

EASEMENT :—

Right of way—Agreement—Construction—Extent of right limited by size of entrance to servient tenement existing at date of grant—Party wall—Interference with.—F. was the owner of a house and garden abutting on a lane belonging to F. As the result of verbal agreement between P. and F., F. set back his wall so as to make the lane more easy of access, and opened a gateway nine feet wide, through which he thereafter enjoyed access for horses and carriages over the lane. The house having been purchased by the defendants, who enlarged the gateway to twelve feet and used it for the motor-cars of guests in their hotel,

Held, affirming Joyce, J., that neither the change of character of the dominant tenement, nor the use of motor-cars, was inconsistent with an unrestricted right of way to a private house for horses and carriages, but

Held, reversing Joyce, J., that the proper inference from the facts was that the wall set back continued to be a party wall with which the defendants had no right to interfere, and that the right of way granted was a right of way through a nine-foot gate and would not justify user through a twelve-foot gate.—*WHITE v. GRAND HOTEL, EASTBOURNE, C.A.*, 58 ; 1913, 1 Ch. 113.

See also Light.

EDUCATION :—

1. *Elementary school—New non-provided school—Power of local authority to provide furniture—Education Act, 1902, ss. 7, 8.*—Where persons other than the local education authority provide a new school under the provisions of the Education Act, 1902, the local authority have power to provide and pay for the furniture necessary to equip such school as a public elementary school.—*THE KING v. EASTON, C.A.*, 225 ; 1913, 2 K. B. 60.

2. *Non-provided school—Right to appoint caretaker and cleaner—Respective powers of local authority and managers—Education Act, 1902 (2 Ed. 7, c. 42), s. 7.*—By the Education Act, 1902, the primary power and duty of appointing a caretaker and cleaner in a non-provided public elementary school are vested in the managers and not in the local education authority.—*GILLOW v. DURHAM C.C., H.L.*, 76 ; 1913 A. C. 54.

ELECTRIC LIGHTING :—

Connecting two areas of supply of one company by mains—Existing main—Power to make new connection—London Electric Supply Act, 1908 (8 Ed. 7, c. clxxvii.), s. 4 (2).—A company to which the London Electric Supply Act, 1908, applies has power under section 4 (2) of that Act to make a connection by means of a main passing outside their area, between two authorized areas of supply, although there is an existing connection between the two areas constructed previous to the passing of the Act.—*BATTERSEA BOROUGH COUNCIL v. COUNTY OF LONDON ELECTRIC SUPPLY CO.*, Joyce, J., 426.

EQUITABLE ASSIGNMENT :—

Will—Share of an estate—Severance of joint tenancy—Implication of.—If A executes an equitable assignment of his reversionary interest under the will of B, and such reversionary interest is an interest as joint tenant with others expectant on the death of the tenant for life, such assignment will operate by implication to create a severance of the joint tenancy, for it could not have been the intention of the parties thereto that the security should be void if A should predecease any of the other joint tenants in reversion.—*RE SHARER, Neville, J.*, 60.

EVIDENCE :—

1. *Register of births, marriages and deaths—Non-parochial registers—Society of Friends—Digest of the register—Public documents—Certificate of the recording clerk—Non-parochial Registers Act, 1840 (3 & 4 Vict. c. 92), ss. 6, 9.*—The non-parochial registers of births, marriages and deaths are only admissible in evidence in so far as they have been made so by statute.

By the Non-Parochial Registers Act, 1840 (3 & 4 Vict. c. 92), ss. 6 and 9, 1,500 volumes of the Registers of the Society of Friends were deposited at Somerset House, and extracts from them were made admissible in evidence, but they were not indexed, and accordingly it was sought to put in evidence certified extracts from the digest of these registers, which digest was still in the custody of the society.

Held, that these extracts were inadmissible.—*RE WOODWARD, Swinfin Eady, J.*, 426 ; 1913, 1 Ch. 392.

2. *Report by deceased surveyor—Contemporaneous record made in course of duty.*—An expert was directed by a company to inspect and report on a rubber plantation in Sumatra. The expert made the inspection and returned to Singapore, where he was ill in hospital for a month before making the report. He afterwards died, and in proceedings to cancel an allotment of shares on the ground of untruth in the prospectus, the applicant tendered this report in evidence.

Held, affirming the decision of Warrington, J., that the report was not admissible, owing to its not having been made contemporaneously with the inspection.—*RE DJAMBI SUMATRA RUBBER ESTATES, C.A.*, 43.

3. *Schedule of evidence* Action involving more than one issue—Appeal on one issue—Evidence to be included in the schedule—R. S. C., ord. LXII, r. 14c.*—Judgment having been given against the plaintiffs on a particular issue, in an action against two defendants and involving more than one issue, the plaintiffs appealed against the decision of the court on that issue.

Held, that the whole of the evidence given at the trial must be put in the schedule of evidence, and not merely that relevant to the issue as to which there was an appeal.—*BRINSMEAD v. BRINSMEAD, Warrington, J.*, 478 ; 1913, 1 Ch. 492.

EXECUTOR :—

Administration—Pledge of personal chattels many years after testator's death by one executor who, under the dispositions of the will, had become a co-trustee—No representation as to pledgor's title made to pawnbroker at time of pledge—Title of pledgee.—A testator, who died in 1878, appointed two persons as his executors and trustees, and bequeathed his residuary estate to them upon certain trusts. All debts and funeral expenses of the testator were paid within a year from his death, and the residuary account was passed. In 1892 one of the executors, not purporting to act as executor, but as absolute owner, and without the knowledge or consent of his co-executor and trustee, pledged certain articles forming part of the testator's residuary estate with the defendants, to secure money borrowed by him, which he applied for his own private purposes. This executor died in 1907, and another trustee was appointed in his place. In 1908 the trustees discovered that the articles had been pledged, and claimed them from the pawnbrokers. The trustees subsequently redeemed the articles pawned, on an undertaking by the pawnbrokers to refund the money if a judgment of Joyce, J. (reported 1911, 2 Ch. 159), holding that the pawnbrokers had acquired a good title, was reversed on appeal.

Held, affirming the decision of the Court of Appeal (56 SOLICITORS' JOURNAL, 270; 1912, 1 Ch. 451), that the pawnbrokers had no title in the articles, as the deceased executor, by the depositions of the will, had the possession of the goods only as a co-trustee, and therefore could not dispose of them except with the knowledge and consent of his co-trustee.—ATTENBOROUGH v. SOLOMON, H.L., 76; 1913, A.C. 76.

See also Limitations, Statute of, Probate, Revenue.

FERRY :—

Franchise from point to point—Disturbance—New traffic—The plaintiffs owned an ancient ferry across the River Thames. The defendants established a new ferry about a quarter of a mile from the old ferry to meet a public demand which had arisen as a result of the opening up of public grounds for recreation and pleasure on the banks of the river.

Held, that the traffic carried on by the defendants was substantially new in character, and therefore was not an infringement of the franchise of the ancient ferry.—DYSART v. HAMMERTON, Warrington, J., 501.

FISHERY :—

Salmon Fishery Acts, 1861, 1873—Breach punishable summarily—Action by person interested.—Per cur.—When a person does acts which are prohibited by the Salmon Fishery Acts and are punishable in a summary way, any party having fishing rights in the river affected may maintain a civil action against him, provided he can prove that the acts complained of have materially damaged his fishery, e.g., by interfering with the propagation of fish in the river.

Per Cozens-Hardy, M.R., and Kennedy, L.J., diss. Farwell, L.J., the evidence in the case did not establish damage.

Decision of Eve, J., affirmed on this ground.—FEASER v. FEAR, C.A., 29.

FRANCHISE.—See Ferry, Market.

GAS :—

Gas company—Laying pipes in highway—Land dedicated to use of public—Extent of dedication—Pipes laid five or six feet below surface—Gasworks Clauses Act (10 & 11 Vict. c. 15), ss. 6, 7.—Although only so much of the soil of a highway is dedicated to the public as is necessary to support the road, yet under the Gasworks Clauses Act, 1847, pipes in connection with authorized works can be laid in the underlying soil without the consent of the owner of the soil.—SCHWEDER v. WORTHING GAS LIGHT AND COKE CO., Eve, J., 44.

HIGHWAY :—

1. *Creation after 1835—Dedication presumed from user—Liability of parish to repair—Highways Act, 1835, s. 23*.—A road which becomes a highway after 1835 will not be repairable by the public unless the provisions of section 23 of the Highways Act, 1835, can be proved, or presumed to have been complied with. And this is so whether the road has been made and dedicated by the landowner, or has become a highway by user on the part of the public without actual dedication.—CABABE v. WALTON-ON-THAMES D.C., C.A., 158; 1913, 1 K.B. 481.

2. *Dedication—Rights of adjoining owners in highway*.—Where a street has been laid out, but only made up on one side, there can be no dedication of the side made up, apart from the other. Evidence of dedication of one side proves dedication of the whole.

The owner of land adjoining a highway is entitled to enter upon it for the purpose of using it at any point and to cross the footpath with vehicles so long as he does so without unreasonably interfering with the right of foot passengers to walk along the footpath.

Decision of Joyce, J. (*ante*, p. 357), affirmed.—TOTTENHAM DISTRICT COUNCIL v. ROWLEY, C.A., 11; 1912, 2 Ch. 633.

3. *Extraordinary traffic—Particulars—Highways and Locomotives (Amendment) Act, 1878, s. 23*.—A judge at chambers affirmed an order of a master, made in an application with regard to particulars in a statement of claim in an action brought in respect of extraordinary traffic, by directing that the particulars as to the average expense for the past five years of repairing similar highways in the district should be allowed, but he disallowed those with regard to the average expense during the same period of repairing the actual road in question.

Held, that the particulars which had been struck out as to the average expense of the past five years, stating the cost of labour, the establishment charges and the nature and amount and cost of materials were particulars of the plaintiffs' claim, and therefore the words "stating the cost of labour, the establishment charges, and

the nature and amount and cost of materials" should be restored in the summons. With regard to the particulars of the average expense of repairing the road, they related rather to the defence than to the claim, and as to these the defendants were not entitled to particulars.—MORPETH RURAL COUNCIL v. BULLOCKS HALL COLLIERY, C.A., 373; 1913, 2 K.B. 7.

4. *Obstruction—Causing crowd to assemble—Theatre—Queue—Police regulation—Public nuisance*.—A crowd assembled outside a theatre, and marshalled in a queue for the purpose of obtaining admittance into the theatre, may occasion a public nuisance by obstructing the highway, for which the management of the theatre is responsible in law. The fact that the crowd is regulated and controlled by the police authorities is no defence in an action for an injunction and damages.—LYONS, SONS & CO. v. GULLIVER, Joyce, J., 444.

See also Gas, Land Tax, Practice.

HUSBAND AND WIFE :—

Summary Jurisdiction (Married Women) Act, 1895—Alleged desertion—Summons dismissed—Second summons—Additional evidence—Res judicata—Wife to pay costs.—Where a wife had failed on a summons alleging desertion against her husband and had issued a second summons on a similar ground and had obtained an order for maintenance;

Held, that the order must be quashed as the matter on the second summons was *res judicata*, and further that as that point had been taken in the court below the wife must bear her own costs of the appeal and in the justices' court.—BLACKLEDGE v. BLACKLEDGE, P.D., 159; 1913, P. 9.

See also Divorce, Settlement.

INFANT :—

1. *Contract of employment—Necessaries—Instruction—Benefit of infant—Executory consideration*.—An infant who enters into a contract which provides, amongst other things, for his education and professional instruction, will be liable upon it if, taking the contract as a whole, it is for his benefit that he should perform it. Such education and instruction are necessities at law. An infant who has not already derived any benefit from it is not entitled to repudiate a contract merely on the ground that it is *executory*.—ROBERTS v. GRAY, C.A., 143; 1913, 1 K.B. 520.

2. *Maintenance—Charge on vested remainder in real estate—Jurisdiction of court—Lands Charges Act, 1900, s. 2 (1)*.—An infant was entitled to a vested remainder in freehold land, expectant upon the death of the tenant for life, a lady eighty-five years of age, but was otherwise for the time being without means of support. An application having been made by the infant's guardian for an order charging the repayment of such sums as should be advanced, paid into court, and duly expended, in maintaining the infant, upon the said remainder,

Held, that the court had no jurisdiction to make such an order.—RE BADGER, C.A., 339; 1913, 1 Ch. 385.

3. *Maintenance—Maintenance to cease on marriage—Marriage under twenty-one—Interval between marriage and twenty-one—Income accrued due before the marriage—“Contrary intention”—Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41), s. 43*.—Where a testator by his will provided for application of income for maintenance of beneficiaries who should be under the age of twenty-one years, or, being female, should be unmarried, and for accumulation of the surplus,

Held, that this clause did not show a "contrary intention" so as to exclude the operation of section 43 of the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41), and that accordingly the trustees had power under that section to apply the income for a daughter's maintenance from the date of marriage until she attained twenty-one.

The rule in *RE Thatcher's Trusts* (26 Ch. D. 426) followed and applied.—RE SIR DANIEL COOPER, Farwell, L.J., 389; 1913, 1 Ch. 350.

4. *Next friend of infant—Action by father as next friend—Action not for benefit of infant—Dismissal of action—Cost to be paid by next friend—Inquiry—Discretion*.—Where an action is brought up by the next friend of an infant plaintiff, which is not for the benefit of the infant, it will be dismissed with costs, to be paid by the next friend, even though he be the father of the infant.—HUXLEY v. WOOTTON, Eve, J., 145.

5. *Ward of court—Removal out of the jurisdiction—Comittal*.—It is no answer to a motion for committal to prison for contempt of court, in removing a female ward of court out of the jurisdiction, that the act was done on the solicitation of the ward, and that, although there was knowledge that the girl was a ward of court, there was not full knowledge of the meaning of that status.

Where there was not knowledge that the girl was a ward of court, such ignorance of the fact did not altogether exonerate the ignorant parties, but constituted an alleviation of their contempt, so that they were not committed by the court, but only mulcted in costs.—*RE J., AN INFANT*, *Sargent, J.*, 500.

INJUNCTION :—

1. *Publication of letters*—Letters obtained by collusion with solicitor's clerk—*Publication of copies*—*Bankruptcy proceedings*.—Where a debtor, against whom hostile proceedings were pending in bankruptcy at the instance of one of his creditors, managed to obtain possession of a number of confidential letters written by the creditor to the latter's solicitor, and caused copies of them to be made, the court granted an injunction to restrain him and any other person in possession of such letters or copies from publishing or making any use of such letters or copies for any purpose whatever, and an order to deliver up the same to the creditor's solicitor. The fact that such letters, however obtained, might be admissible in evidence, held immaterial.

Decision of Neville, J., varied.—*ASHBURTON v. PAPE*, *C.A.*, 644.

2. *Threat by auctioneers to aid and abet the defendant in committing a breach of the injunction*—Instructions given by defendant to auctioneers to sell—*Auctioneers not parties to the action*—*Ex parte injunction obtained*—*Jurisdiction to continue it without adding the auctioneers as defendants*.—The court has jurisdiction to grant an injunction to restrain persons who are not parties to an action from aiding and abetting the defendant in the action in committing a breach of an injunction which has been obtained from the court against such defendant by the plaintiff. The defendant in this case was under order of the court not to sell certain meadow grass. He nevertheless instructed some auctioneers to sell it. The defendant could not readily be found, so the plaintiff obtained an *ex parte* injunction against the auctioneers.

Held, that there was jurisdiction to continue that injunction without adding the auctioneers as parties to the action.

Seaward v. Paterson (1897, 1 Ch. 545) followed.—*HUBBARD v. WOODFIELD, Neville, J.*, 729.

See also *Covenant, Manor*.

INSURANCE :—

1. (*Life*)—*Foreign domicile of insured person*—*Personal representation*—*Right of to recover policy money without obtaining English grant of representation*—*Revenue Act, 1889* (52 & 53 Vict. c. 42), s. 19.—A policy of life insurance was effected with an English company by a person who subsequently died domiciled abroad. In an action by the insured's executor to recover money payable under the policy,

Held, that he was entitled to succeed without producing a grant of representation from an English court, subject to the possible right of the insurance company to retain a sufficient sum to meet any claim of the Crown to estate duty.—*HAAS v. ATLAS INSURANCE CO.*, *K.B.D.*, 446; 1913, 2 K. B. 209.

2. (*Marine*)—*Policy*—Assignment of—*Concealment of material facts by original assured*—Whether available against innocent assignee—*Marine Insurance Act, 1906* (6 Ed. 7, c. 41), s. 50 (2).—Underwriters are entitled under section 50 (2) of the Marine Insurance Act, 1906, to set up as against innocent assignees the defence of concealment of material facts on the part of the original assured.—*PICKERSGILL v. LONDON AND PROVINCIAL ASSURANCE CO.*, *K.B.D.*, 11; 1912, 3 K. B. 614.

3. (*Marine*)—*Policy*—*Reinsurance*—Non-disclosure of material fact—*Policy subject without notice to the same clauses and conditions as the original policy*—*Liability of reinsurer*.—*Semble*, where a policy of reinsurance is expressed to be "subject without notice to the same clauses and conditions as the original policy" the non-disclosure of a material fact at the time of effecting the reinsurance does not avoid the policy.—*PROPERTY INSURANCE CO. v. NATIONAL PROTECTOR INSURANCE CO.*, *K.B.D.*, 284.

4. (*Marine*)—*Policy on floating dock*—*Seaworthiness admitted*—*Duty of assured to disclose condition of dock*.—An insurance was effected on a floating dock, which was to be towed from Avonmouth to Brindisi, against all the usual risks. The policy contained the clause "seaworthiness admitted." The assured honestly believed that the dock was fit for the voyage, but in fact it was not seaworthy, and during the voyage sank and was lost. In an action on the policy,

Held, that the defence set up by the underwriters of concealment of a material fact—namely, that the dock was sent on the voyage without having been previously strengthened—failed because, as the assured knew of no specific defect in the dock, and had had no report or opinion to that effect, he was not bound to disclose anything to the underwriters, and it was for them, if they

wanted confirmation as to the construction or strengthening of the dock, to make inquiries.

Decision of Scrutton, J. (1912, 2 K. B. 112), affirmed.—*CANTIERE MECCANICO BRINDISINO v. JANSEN*, *C.A.*, 62; 1912, 3 K. B. 452.

5. (*Marine*)—*Reinsurance*—Original policy—"subject to same clauses and conditions as original policy . . . and to pay as may be paid therein"—*Slips*.—In January, 1911, D. and W. (an underwriting firm) initialled a slip insuring the ss. *Olympic* and *Titanic* for twelve months from delivery, and afterwards reinsured part of this risk with the plaintiffs. In December, 1911, the defendant initialled a slip reinsuring a portion of the plaintiffs' risk—for "twelve months from expiration or delivery, clauses or conditions as original." In January, 1912, while the ss. *Titanic* remained undelivered, D. and W. initialled another slip as follows:—"Olympic, Titanic, twelve months from expiry." No intimation was given to D. and W. or the plaintiffs' agent that this was intended to be anything other than a renewal for a further twelve months after the expiry of the first twelve months, but before the policy was issued an intimation was sent to some of the underwriters to explain that the insurance, so far as the *Titanic* was concerned, would commence from the delivery of the vessel. On the 3rd of April, 1912, a policy was issued by D. and W. insuring the *Titanic* for £2,500 from the 2nd of April, 1912. On the 10th of April, 1912, the plaintiffs, by a policy of that date, reinsured D. and W.'s risk to the extent of £400, and on the 10th of April, 1912, the defendant underwrote a policy reinsuring the plaintiffs' risk to the amount of £80, the policy containing the following clause:—"Being a reinsurance for account the Scottish National Insurance Co. (Limited), subject to the same clauses and conditions as original policy or policies, and to pay as may be paid thereon." The *Titanic* was lost on the 15th of April, 1912, and the plaintiffs paid D. and W. under the policy of the 10th of April. They now sued the defendant under the policy underwritten by him on the 11th of April.

Held, that the defendant was liable on the grounds that the policy of the 10th of April, 1912, was the original policy referred to in the policy of the 11th of April, 1912; that D. and W. were always under a contract of insurance of the *Titanic* for the first twelve months by virtue of the slip they initialled in January, 1911; that the plaintiffs agreed to reinsure them up to £400 in January, 1911, and remained under this liability; that the defendant agreed to reinsure the plaintiffs against their liability to the amount of £80 by initialling the slip of December, 1911; and that he signed the policy of the 11th of April in pursuance of that contract of reinsurance.—*SCOTTISH NATIONAL INSURANCE CO. v. POOLE, K.B.D.*, 45.

6. *Mortgage*—Condition of policy—Policy to cease if the interest of the insured in the mortgaged property should pass from the insured otherwise than by operation of law—Unless memorandum of notice to the insurers is endorsed on the policy by them—*Consent of office*—*Company in liquidation*—Power of liquidator to assign.—A condition that a policy shall cease to be in force if any part of the interest of the insured shall pass from the insured otherwise than by will or operation of law, unless notice of the assignment shall be given to the insurers, and a memorandum of the terms thereof endorsed on such policy, is not a condition preventing the assignment of the policy. An assignment by the Official Receiver of such a policy in the ordinary course of his business of liquidator of the society is an assignment "by operation of law," and as such needs no consent.

The rule in *Doe d. Goodhere v. Bevan* (1815, 3 M. & S. 353) applied to the case of a transfer of a policy by an official liquidator of a company.—*RE BIRKEBECK BUILDING SOCIETY, Neville, J.*, 559.

See also *Assurance Company, National Insurance*.

LAND TAX :—

Redemption—*Land abutting on highway*—*Exoneration ad medium filum*—*Subsequent construction of underground railway*—*Part under highway*—*Exemption from assessment*.—There is a presumption that the redemption of land tax exonerates an adjoining highway *ad medium filum*.

So held, affirming decision of Court of Appeal (reported 55 SOLICITORS' JOURNAL, 714).—*LAND TAX COMMISSIONERS v. CENTRAL LONDON RAILWAY*, *H.L.*, 403.

LANDLORD AND TENANT :—

1. *Conditions implied by Housing, Town-Planning, &c., Act, 1909*, ss. 14, 15—*Defect causing injury to child of tenant*—*No action maintainable by child*.—The child of a tenant of a house to which ss. 14, 15 of the Housing, Town-Planning, &c., Act, 1909 apply brought an action against the landlord for damages for personal injuries alleged to have been caused by the defective state of the house. She was non-suited.

Held, following *Cavalier v. Pope* (1906, A. C. 428), that this decision was right, the plaintiff being a stranger to the contract between landlord and tenant.—*RYALL v. KIDWELL & SON, K.B.D.*, 518 ; 1913, 3 K. B. 123.

2. *Damages caused by malicious act of third party—Overflow from lavatory—Damage to defendant's goods from a cause which could not reasonably have been anticipated.*—In an action for damages in respect of injury caused by an overflow from a lavatory basin on the floor above to the plaintiff's goods,

Held, defendant not liable, as the plugging up of the waste pipe was the deliberate mischievous act of a third party, which could not reasonably have been foreseen, and was therefore not his duty to take special precautions to prevent.

The principle laid down in *Lynch v. Nurdin* (1 Q. B. 29) and considered in *Cooke v. Midland and Great Western Railway of Ireland* (53 SOLICITORS' JOURNAL, 319 ; 1909, A. C. 229) applied.

Fletcher v. Rylands (L. R. 1 Ex. 265) distinguished.—*RICKARDS v. LOTHIAN, P.C.*, 281 ; 1913, A. C. 263.

3. *Demise of first floor of building—Right to outside walls—Window-boxes outside windows—Trespass.*—A demise of an upper floor of a building, which is bounded on one or more sides by an outside wall, will, in the absence of any express provision in the lease, include the outer as well as the inner side of the outside wall.

The defendants, the lessees of offices situate on the first floor of a building, erected window-boxes outside the windows of their offices, supported by iron brackets fixed into the outside wall. In an action by the lessors for an injunction to restrain the defendants from affixing or allowing to remain affixed to the outer wall any brackets or boxes without the consent of the plaintiffs,

Held, that, in the absence of any provision in the lease, the outside wall must be taken to be included in the demise, and that no injunction could be granted.—*HOPE BROS. v. COWAN, Joyce, J.*, 559.

4. *Lease—Covenant by lessor not to let adjoining premises as a garage—Meaning of the word "adjoining."*—The defendants let certain premises to the plaintiffs for a term of years, and covenanted not to let the adjoining premises during the said term as a motor garage and office. Subsequently the defendants let premises near to but not physically touching the premises demised to the plaintiffs as a motor showroom. On a motion to restrain the defendants from letting the premises as a garage,

Held, that the defendants had not committed a breach of the covenant.

Semblé: The word "adjoining" means physically touching unless controlled by the context.

Cave v. Horsell (1912, 3 K. B. 543) considered and explained.—*DERBY MOTOR CAB CO. v. CROMPTON AND EVANS UNION BANK, Eve, J.*, 701.

5. *Lease for term of years—Holding over—Implied tenancy—Agreement by tenant to pay tithe rent-charge—Non-payment of rent—Statute of limitations.*—A lessee for a term held over after the expiration of the term paying no rent but paying the tithe rent-charge. In an action brought by the landlord for recovery of possession more than twelve years after the expiration of the lease,

Held, that the relationship between the parties continued after the expiration of the term, that a tenancy from year to year must be implied, and therefore the plaintiff was entitled to recover possession.—*NEALL v. BEADLE, Eve, J.*, 77.

6. *Property tax—Deduction from rent—Omission to deduct—Right of tenant to deduct from subsequent payments of rent—5 & 6 Vict. c. 35, Schedule A, No. IV., Rule 9—16 & 17 Vict. c. 34, s. 40.*—A tenant who pays rent without deducting the amount of property tax which he has paid on behalf of the landlord is entitled to deduct it from subsequent payments of rent.—*RE STURMEY MOTORS, Warrington, J.*, 44 ; 1913, 1 Ch. 16.

7. *Underlease—Restrictive covenant in head lease—Alleged warranty that no restriction—Collateral agreement—Admissibility of evidence.*—By an agreement in writing the defendants agreed to sub-let certain premises to the plaintiff. The defendants held the premises under a lease which contained a covenant not to use them for dancing purposes. The plaintiff alleged a parol agreement by the defendants that the premises could be used for dancing. In an action by the plaintiff to recover damages for breach of warranty,

Held, that the parol agreement had not been established, and that even if it had been established, it was not a collateral agreement, but an agreement relating to the subject matter of the contract for letting, and must be found in it.

Jones v. Lavington (1903, 1 K. B. 253) followed.—*CRAWFORD v. WHITE CITY RINK, Eve J.*, 357.

LANDS CLAUSES ACT:—

Compulsory purchase—Costs—Petition for payment out—Small Holdings and Allotments Act, 1908 (8 Ed. 7, c. 36), ss. 39, 41—Lands Clauses Consolidation Act, 1845 (8 Vict. c. 18), s. 80—Wilful refusal to convey.—After an order for compulsory purchase of land had been duly confirmed under section 39, sub-section (3), of the Small Holdings and Allotments Act, 1908 (8 Ed. 7, c. 36), the solicitor for the owner wrote that he was advised by counsel that the order might be bad, and subsequently he wrote again refusing to convey, alleging the same advice.

Held, that there had been a wilful refusal to convey within the meaning of section 80 of the Lands Clauses Consolidation Act, 1845 (8 Vict. c. 18).—*RE JONES AND CARDIGANSHIRE COUNTY COUNCIL, Farwell, L. J.*, 374.

LIBEL:—

Privilege—Trade protection society's liability for information supplied by third party.—No privilege or protection attaches to information supplied by a trade protection society to its customers which is injurious to another.

Decision of Lord Alverstone, C.J. (29 T. L. R. 64), affirmed, but new trial ordered on another ground.—*GREENLANDS v. WILMSHURST, C.A.*, 740.

See also Defamation, Trade Union.

LICENSING LAW:—

1. *Annual licence value—Mode of fixing—Finance Act, 1910 (10 Ed. 7, c. 8), s. 44.*—A licensed public-house was held upon lease from the petitioners and was subject to a tie for malt liquor. It did some business as an eating-house.

Held, that under the Finance Act 1910, s. 44 (2), in arriving at the annual licence value the increased value arising from the increased profits derived from the sale of eatables and non-intoxicants should be taken into consideration.—*INLAND REVENUE COMMISSIONERS v. TRUMAN, HANBURY, BUXTON & CO., H.L.*, 662.

2. *Increase of duty under Act of 1910—Right of lessees to recover portion from grantor—Lessees not in possession and not licence-holders—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), s. 46—Finance Act, 1912, (2 & 3 Geo. V., c. 8), s. 2.*—The lessee "holding" under a lease or agreement for a lease made before the passing of the Finance (1909-10) Act, 1910, and entitled to recover the sum mentioned in section 2 of the Finance Act, 1912, is only the lessee actually holding the licence.—*WATNEY, COMBE, REID & CO. v. BERNERS, K.B.D.*, 687.

LIEN:—

Warehouseman—General lien.—Goods were received into stores on the terms that they should be subject to a general lien for all charges accrued and accruing against the storers or for any other moneys due from the owners of the goods.

Held, that the stores had a general lien for their charges, not only in respect of the particular parcels demanded, but for charges due from the storers in respect of other parcels, and that such lien was available against sureties for the storers who had a charge on the goods.—*JOWITT & SONS v. UNION COLD STORAGE CO., K.B.D.*, 560.

LIGHT:—

Obstruction—Ancient light—Alteration of height of different portions of servient tenement—Light not diminished—Feared future obstruction—Compensation—Easement.—The plaintiff was the owner of an ancient light overlooking the back of the defendant's premises. The defendant made alterations to his premises, raising the height of the front portion and lowering the back portion. In an action by the plaintiff for damages for obstruction of his ancient light,

Held, that account must be taken of the new light which the plaintiff enjoyed over the portion of the defendant's building that had been lowered, that the plaintiff had suffered no diminution of light, and so had suffered no damage and was not entitled to compensation; but, further, that he had a negative easement over the whole servient tenement, and that the defendant could not subsequently, by raising the back of his building, seriously obstruct the light enjoyed by the dominant tenement.—*DAVIS v. MARRABLE, Joyce, J.*, 702.

LIMITATIONS, STATUTE OF:—

1. *Administration—Distribution of assets—Executors' liability after six years—Trustee Act, 1888 (51 & 52 Vict. c. 59), s. 8.*—The executors of a testator who left a large leasehold estate distributed the property among the beneficiaries, obtaining from them covenants of indemnity in respect of the liabilities under the

leases. More than six years afterwards a liability was incurred by reason of the rents due to the freeholders not being paid.

Held, that section 8 of the Trustee Act, 1888, was not applicable to exempt the executors from liability.—*RE BLOW, Warrington, J.*, 303; 1913, 1 Ch. 358.

2. Shipping agent—Employment in ordinary course of business—Balance of account—Express trustee—A shipping agent, acting in the ordinary course of his business, sold a cargo of coals in a ship that had become a total wreck, on behalf of the plaintiff, who was an average adjuster. The ultimate balance of account was £96 odd in his books, but it was never paid over. Ultimately the plaintiff heard of the balance, and subsequently brought an action to recover the sum. It appeared that the claim was barred by the Statute of Limitations unless the defendant, the shipping agent, was an express trustee of the money.

Held, that as the money was a balance of account of transactions which the defendant had carried out in the ordinary course of his business as a shipping agent, he was not bound to keep the money in a separate fund, but was entitled to mix it with the other moneys of his business, and that therefore he was not an express trustee of the moneys, so that the Statute of Limitations would not apply.—*HENRY v. HAMMOND, K.B.D.*, 358; 1913, 2 K. B. 515.

See also Mines.

LOCAL GOVERNMENT :—

1. Building line—Prescription by local authority—Setting back new building erected on site of old—Payment or tender of compensation—Mandatory order to pull down building contravening prescribed line—Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 155.—Where a local authority prescribed a building line under section 55 of the Public Health Act, 1875, for the rebuilding of a house in an old street, setting it back from the original site, the building owner is bound to comply with the prescribed line. Where he has refused to observe it after it has been brought to his notice, and has rebuilt upon the same site as the former building, the court will grant a mandatory order to pull down the new building. The payment or tender of compensation to the owner for any damage he may sustain by reason of his house being set back is not a condition precedent to the prescription or enforcement of the building line.

Decision of Joyce, J. (*ante*, p. 390), reversed.—ATTORNEY-GENERAL *v. PARISH, C.A.*, 625.

2. Contract to prepare estimates for improvements—Contract not under seal—Executed consideration—Quantum meruit—Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 174—Commissioners Clauses Act, 1847 (10 & 11 Vict. c. 16), s. 56.—When a local authority, not acting under the powers or for the purposes of the Public Health Act, 1875, enters into a contract for the purpose of exercising other statutory powers, if the work is done and the whole consideration executed, then, in the absence of any statutory provision to the contrary, the absence of a contract under seal is no defence to an action brought in respect of the work done, and the plaintiff in such action will be entitled on a quantum meruit.

Lawford v. Billericay Rural District Council (1903, 1 K. B. 772) followed.—*DOUGLASS v. RHYL URBAN DISTRICT COUNCIL, Joyce, J.*, 627.

3. Street widening—Compulsory purchase—Extent of powers—Part of a house—Metropolitan Paving Act, 1817 (57 Geo. 3, c. 29, ss. 80, 82).—A corporation gave notice to the lessees of certain houses to treat for the purchase of the front part of the houses for the purpose of widening the street, under the provisions of section 80 of 57 Geo. 3, c. 29. The lessees were not willing to treat for the sale of part of the houses, but required the corporation to purchase the whole.

Held, that the corporation could not compulsorily purchase a part only of the houses if the effect would be to destroy the identity of the building as a house, and to leave something which could not be used for the purpose for which the house was used before, and which would be essentially different in its character and condition from what the house was before.—*DAVIES v. CITY OF LONDON, Warrington, J.*, 341; 1913, 1 Ch. 415.

See also Rating.

LONDON :—

Building Act—Party wall—Past history—Existing condition—Point not raised in county court.—Where a building owner has served upon an adjoining owner in reference to a party wall which was defective, a party-wall notice, under Part VIII. of the London Building Act, 1894, and differences have arisen between the parties with reference to the proposed work, the surveyors appointed under the Act to settle such differences, and the county court judge, on appeal from their award, have no right to inquire into the past



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history of the party-wall, but must have regard only to its existing condition.

So held, affirming on that point an order of the Court of Appeal (1912, 3 K. B. 510), but varying the order made in other respects.—*BARRY v. MINTURN, H.L.*, 715.

See also Electric Lighting, Local Government, Rating.

MANOR :—

Claim to right of common—Alleged waste of the manor—Claim to common of turbary in the lord's wastes—Grant of estovers—Trespass in assertion of the claim—Excessive damage—Injunction.—Where the tenants of a manor, claiming common of pasture, common of turbary and common of estovers, entered on the wastes of the manor and cut down some twenty acres of fir and birch trees and saplings in assertion of their right,

Held, that they had committed a trespass for which the lord of the manor could have an injunction against them and damages, because these alleged rights had not been wrongfully destroyed, but only possibly curtailed, and their proper course in such a case is to apply to the court for a declaration of their rights.

Sadgrove v. Kirby (1795, 6 T. R. 483) followed.

Arlett v. Ellis (1827, 7 B. & C. 316) distinguished.—*HOPE v. OSBORNE, Neville, J.*, 702.

MARKET :—

Franchise—Royal Charter—Market days—Overflow into adjoining streets—Presumption of lawful origin for extension of right—Lost grant—Tolls levied from sellers and not from buyers—Commutated tolls—Reasonableness.—Where a market has originated in a grant by Royal Charter of a franchise limited to two days a week, and has also been held on two other days a week under another charter (afterwards held invalid), a lawful origin, whether by lost grant or otherwise, cannot be presumed for the extension of the market to and the taking of tolls on every week day. The market may lawfully overflow into the streets around and adjacent to the market square on the charter days, but any obstruction caused to traffic on other days will be restrained by injunction.

Tolls are payable by the buyer and not the seller, but a contract between the market owner and any individual seller, whereby the latter, in consideration of the payment of a lump sum, may sell goods toll free, is valid. Tolls must be reasonable, but need not be uniform, nor need a scale of tolls be published.—ATTORNEY-GENERAL *v. HORNER, C.A.*, 498.

MASTER AND SERVANT :—

Employer and workman—Coal mines—Wages—“Pits”—Meaning of Coal Mines (Minimum Wage) Act, 1912 (2 Geo. 5, c. 2), s. 2, subsection 5.—Semble, that the court has jurisdiction under Order 25, r. 5, to put a construction upon awards under the provisions of the Coal Mines (Minimum Wage) Act, 1912, to the extent of declaring the rights of the parties under such awards.

In an award made by the chairman of the Joint District Board for West Yorkshire, the eastern subdivision was defined to “include all pits situate on the east of the Great Northern Railway Company's main line.”

Held, that the word “pits” was used to denote the shafts by which the men came up and went down.—*LOFTHOUSE COLLIERIES v. OGDEN, K.B.D.*, 186; 1913, 2 K. B. 120.

See also Workmen's Compensation, Trade Secrets.

MINES AND MINERALS :—

1. Railway—Lateral support from minerals—Common law right to support—Minerals outside forty yards—Stratum of coal under railway owned by company.—The Statutory Mining Code contained

in sections 78 to 85 of the Railway Clauses Consolidation Act, 1845, has no application outside the limit of forty yards or other limit prescribed by the special Act.

The respondent railway claimed that they were entitled to a common law right of support for their railway and works, which were constructed on lands acquired by purchase, from such portions of the vendor's remaining lands and mines and minerals thereunder as were situated outside the distance of forty yards from the railway and works.

Held, affirming decision of Court of Appeal (55 SOLICITORS' JOURNAL, 459; 1911, 2 Ch. 97), that the railway company were entitled to judgment, as their common law right was unaffected by the Mining Code sections.—HOWLEY PARK COAL AND CANNEL CO. v. L. & N. W. RLY., H.L., 42; 1913, A.C. 11.

2. Lease—Severance of reversion—Apportionment of rent—Payment to one reversioner—Real Property Limitation Act, 1833, s. 9.—Where a lease is granted, and there is afterwards a severance of the reversion without the rent being apportioned or notice of the severance given to the lessee, payment of the whole rent to one of the reversioners is not a payment to a person wrongfully claiming it within section 9 of the Real Property Limitation Act, 1833, so as to bar the claim of the other reversioner.—MITCHELL v. MOSLEY, Eve, J., 340.

See also Master and Servant, Revenue, Settled Land, Stannaries, Trustees.

MISTAKE:

Money paid under mistake of fact—Sequestration by bishop—Bankruptcy Act, 1883, s. 52.—On the bankruptcy of an incumbent the bishop issued a sequestration appointing his secretary to get in the emoluments of the benefice, who collected the income and applied it in payment of a curate, handing the balance to the trustee in bankruptcy. Among the income so collected was certain tithe rent-charge paid by the plaintiffs in ignorance of the fact that they were not liable for it, owing to the expiration of the lease.

Held, that there was no defence to an action against the bishop to recover the money so paid.—BAYLIS v. BISHOP OF LONDON, C.A., 98; 1913, 1 Ch. 127.

See also Waterworks.

MORTGAGE:

1. Contingent interests—Priorities—Advances by trustee on account of contingent share—Subsequent assignee bound by state of accounts.—D was entitled to a share of residue contingently on attaining twenty-five. During the contingency H, one of the trustees, made advances to D, who subsequently executed a mortgage to A, the money being lent without inquiry.

Held, affirming Joyce, J., that H was entitled to recoup his advances out of the share in priority to A's mortgage.—RE GODDARD, C.A., 42.

2. Priority—Legal estate—Prior equitable charge—Custody of deeds—Omission to give notice to equitable mortgagee—Subsequent equitable mortgage by deposit of deeds—Negligence—Omission to obtain deeds on payment off of prior mortgage.—A mortgagor deposited documents of title with a bank by way of equitable mortgage, and subsequently created a legal mortgage upon the same property, the legal mortgagee not giving notice of his security to the prior equitable mortgagee. The mortgagor subsequently paid off the equitable mortgage, receiving back the documents of title, which he deposited by way of equitable mortgage with the defendant bank, not disclosing the existing legal mortgage. In an action by the legal mortgagee for a declaration that his mortgage was entitled to priority over the defendant bank's equitable mortgage,

Held, that the legal mortgagee's omission to give notice of his mortgage to the prior equitable mortgagee's omission to obtain the documents of title when the equitable mortgage was paid off, did not amount to such negligence as to postpone his security.—GRIERSON v. NATIONAL PROVINCIAL BANK OF ENGLAND, Jo., 517; 1913, 2 Ch. 18.

See also Company, Insurance, Practice.

NATIONAL INSURANCE:

1. Dispute between approved society and insured person—Resolution of society—Validity of resolution sought to be decided by action—Action maintainable where resolution is ultra vires—National Insurance Act, 1911 (1 & 2 Geo. 5, c. 55), s. 67.—An approved society under the National Insurance Act passed a resolution in relation to the payment of sickness benefit in these terms:—"In every instance a certificate from a panel doctor must be sent." The plaintiff, a member of the society, being refused sickness benefit on the ground that he had sent a certificate, not

from a panel doctor, but from his own doctor, commenced an action claiming a declaration that the resolution requiring him to produce a certificate from a medical practitioner on the panel was *ultra vires*.

Held, reversing the decision of Bailhache, J. (29 T. L. R. 376), that the resolution was illegal and *ultra vires*, and that the plaintiff was entitled to a declaration to that effect.—HEARD v. PICKTHORNE, C.A., 532.

2. Employed contributors—Employment otherwise than by way of manual labour—Lithographic artists—Engravers—1 & 2 Geo. 5, c. 55, section 1 (1), (2), Schedule Part II. (g).—The question being whether "lithographic artists" who are employed in preparing plates for the printing of coloured reproductions of pictures, and "engravers" who are employed in the correction of plates for the printing of half-tone photographic reproductions, are employed by way of manual labour.

Held, that such "lithographic artists" and "engravers" are not employed by way of manual labour.—RE NATIONAL INSURANCE ACT, Warrington, J., 557.

NEGLIGENCE:

1. Death of daughter—Reasonable expectation of pecuniary benefit—Fatal Accident Act, 1846 (9 & 10 Vict. c. 93), ss. 1, 2.—The father of a girl, killed in a railway accident, claimed damages under Lord Campbell's Act. At the trial the evidence was that the girl, who lived at home and was then apprenticed to a dressmaker, was not contributing to the household expenses, but that she was a clever workwoman, and that there was a reasonable expectation that she would do so as soon as she was out of her apprenticeship, which would be in a couple of months or so.

Held, that there was sufficient evidence to justify the judge leaving the case to the jury, inasmuch as under Lord Campbell's Act it was sufficient for the plaintiff to shew that he had lost a pecuniary benefit by the death of his daughter, and there was nothing which limited that pecuniary benefit to an actually existing benefit.

Decision of Court of Appeal (Farwell, L.J., dissenting) (28 T. L. R. 340) affirmed.—TAFF VALE RAILWAY COMPANY v. JENKINS, H.L., 27; 1913, A.C. 1.

2. Electric tramcar—Res ipsa loquitur—Evidence—Explanation by jury of their verdict.—In an action for negligence causing injuries to a passenger on an electric tramcar there was uncontradicted evidence that the car was in good order, and properly worked, and that the company had used every possible precaution known to electrical engineers to prevent the occurrence of the accident which took place. The jury found for the plaintiff with damages, but when asked by the judge to suggest what possible precautions the company should have taken, were unable to do so.

Held, by Cozens-Hardy, M.R., and Hamilton, L.J. (Farwell, L.J., dissenting), that the defendants, not being in the position of insurers against all risks of transit, were entitled upon this verdict to judgment.—NEWBERRY v. BRISTOL TRAMWAYS, C.A., 172.

3. Injury to infant trespasser—Invitation—Leave and licence—Hidden danger—Liability of landowners to children.—A child 2½ years of age went unaccompanied upon a piece of unfenced vacant land, from which houses had been cleared, and sustained an injury whilst playing with a pile of stones which had been recently deposited there by the servants of the owner.

Held, upon the findings of the jury, that no action for negligence would lie against the owner of the land.

The liability of landowners to licensees and trespassers, particularly children, discussed.—LATHAM v. JOHNSON, C.A., 127; 1913, 1 K.B. 398.

See also Corporation.

NUISANCE:

Motion for an injunction—Nuisance at common law—Case can be established notwithstanding evidence of existence of previous greater nuisance on the premises.—On an application for an interlocutory injunction to restrain an alleged nuisance the court held that a nuisance at common law had been established, and granted the application, although evidence was tendered for the defence that a still greater, although a different, nuisance had existed on the premises for many years past.—ADAMS v. URSELL, Swinfen Eady, J., 227; 1913, 1 Ch. 269.

See also Highway.

PARTITION:

Action—Request for sale—Infant—Sale for benefit of infant—Conversion—Partition Act, 1868 (31 & 32 Vict. c. 40), s. 8—Partition Act, 1876 (39 & 40 Vict. c. 17), s. 6—Settled Estates Act, 1856 (19 & 20 Vict. c. 120), ss. 23, 24 and 25.—A fund in court to the

account of a deceased infant, and representing his share of the proceeds of freehold land sold in a partition action, a proper request for sale having been made by the next friend, and an order for sale having been made on a certificate by the master that it would be for the benefit of such infant that the land should be sold, and everything having been done in accordance with the requirements of section 6 of the Partition Act, 1876 (39 & 40 Vict. c. 17), is still real estate, and descends to the infant's heir-at-law, because the infant, being under disability, the equity to reconversion is preserved.

The rule in *Re Barker* (1881, 17 Ch. D. 241) applied.—HOPKINSON v. RICHARDSON, *Swinfen Eady*, J., 265; 1913, 1 Ch. 284.

PATENT :—

1. *Costs—Infringement of patent—Action to restrain threats—Commencing action for infringement with due diligence—7 Edw. 7, c. 29, s. 36.*—The plaintiffs commenced an action to restrain the defendants from issuing threats against them with regard to an alleged infringement of patent. On the defendants commencing an action for infringement of patent, the plaintiffs consented to stay their action to abide the result. Judgment being given against the defendants in their action, the plaintiffs' action again came on.

Held, that the plaintiffs' action must be dismissed, but without costs, on the ground that the plaintiffs had taken the proper course, with a view to saving costs, and had not put the defendants to the proof that they had commenced their action with due diligence.—METROPOLITAN GAS METERS v. BRITISH, FOREIGN, &c., Co., *Warrington*, J., 129; 1913, 1 Ch. 150.

2. *Infringement of—Agreement to advance money to meet expenses necessary to prevent infringement—Infringement stopped—No money advanced—Failure of consideration—Agreement void—Injunction.*—The plaintiff, while in the employ of the defendant company, registered a design for a patent wreath-band, which design was subsequently infringed by another company. The plaintiff then entered into an agreement with his employers that, in consideration of their paying the necessary expenses to bring an action to stop this infringement, he should give them the sole right of sale, they paying him the same royalty as heretofore. No expenses were in fact incurred, but the plaintiff was subsequently discharged by the defendant company, and brought this action against them for an injunction to restrain them from continuing to use and sell his patent wreath-band. The defendants pleaded the agreement.

Held, that as the defendants had not in fact been called upon to advance the money, the consideration for the agreement had wholly failed, and the agreement was accordingly void, and the plaintiff was entitled to the injunction asked for, and to an inquiry as to damages.—TEMPLEMAN v. COCQUEREL & SONS, *Neville*, J., 405.

PERPETUITIES :—

Remoteness—Rule against perpetuities—Limitations by reference to others ascertainable at a future date—Uncertainty at testator's death.—A testator devised his D. estates to trustees upon trust, ultimately, to assure them to such uses as should by virtue of two settlements, dated prior to the will, and all mesne assurances and operations of law, be subsisting and capable of taking effect concerning his W. estates at the date of the death of his widow,

Held (reversing Eve, J.), that the limitations being unknown at the testator's death, but ascertainable at a future date, were analogous to those which would arise by the exercise of a special power, and therefore did not transgress the rule against perpetuities.

Lord Dungannon v. Smith (12 Cl. & Fin.) distinguished.—RE FANE, C.A., 321; 1913, 1 Ch. 404.

POOR LAW :—

Pauper—Settlement—Deserted wife—Poor Removal Act, 1861, s. 3—Divided parishes and Poor Law Amendment Act, 1876, ss. 34, 35.—A married woman, deserted by her husband, can, by the joint operation of the Poor Removal Act, 1861, s. 3, and the Divided Parishes Act, 1876, s. 34, acquire a settlement for herself by three years' residence in such circumstances as to give her the status of irre-movability.—GUARDIANS OF ST. MATTHEW'S, BETHNAL GREEN v. GUARDIANS OF PADDINGTON, C.A., 171; 1913, 1 K. B. 508.

See also Rating.

PRACTICE :—

1. *Appeal in forma pauperis—By defendant in court below—Conditions precedent—R. S. C. XVI. 22 and 23.*—A defendant in the court below, to appeal to the Divisional Court *in forma pauperis*, must first obtain a certificate of counsel that he has reasonable grounds for so proceeding, in addition to his affidavit as

to lack of means.—MERRIMAN v. GEACH, K.B.D., 146; 1913, K. B. 37.

2. *Assessment of damages—Reference to master—Appeal against assessment—Court of Appeal or Divisional Court—R. S.C. XXXVI. 57.*—In an action for an injunction and damages judgment was entered for the plaintiff for an injunction and an inquiry before a master as to damages. The defendants appealed from the assessment of the master.

Held, that the appeal should be heard by the Court of Appeal and not by the Divisional Court.—DUNLOP PNEUMATIC TYRE CO. v. NEW GARAGE AND MOTOR CO., C.A., 357; 1913, 2 K. B. 207.

3. *Compromise—Stay of proceedings by consent—Summons for receiver after final judgment—Independent proceedings.*—Where, in an action commenced by originating summons, an order had been made by consent staying all proceedings upon the terms of a compromise scheduled to the order, and dealing with questions not raised in the action, and at a later date one of the parties to whom an annuity had been agreed by the compromise to be paid, took out a summons entitled in the action asking, *inter alia*, for a receiver of certain property, the income of which was liable to meet the payments of the annuity, which were in arrear.

Held, that such an application could not be made by a summons in the original action, which was at an end, but must be made the subject of independent proceedings.

Decision of Sargent, J. (*ante*, p. 405), affirmed.—RE HEARN, C.A., 443.

4. *Discovery—Interrogatories—Discovery of documents in possession of defendant's employers.*—The defendant was the general secretary of a trade union, and upon being called upon to give discovery of documents made an affidavit, in which he gave in a schedule a list of documents which he said were in the possession of his union, but that he had no power to produce them, as they belonged to the trade union.

Held, that although, as general secretary, it was within his power to make copies of the documents (see *Hadley v. Macdougal*, 1872, L. R. 7 Ch. 312), it was well established that a person in the position of a servant could not be required to furnish copies of documents belonging to his master.—BALFOUR v. TILLETT, C.A., 356.

5. *Discovery—Production of documents—Person of unsound mind—Next friend—Further and better affidavit as to documents—R. S. C. XXXI. 29.*—The court has no jurisdiction to order the next friend of a person of unsound mind not so found by inquisition to make an affidavit as to documents.

Dyke v. Stephens (30 Ch. D. 189) followed.

Higginson v. Hall (10 Ch. D. 235) dissented from.—PINK v. SHARWOOD, Eoz, J., 663.

6. *Discovery—Production of documents prepared by client for use of solicitor in pending litigation—Privilege—Ord. XXXI. 19 (a) (2).*—In an action the plaintiffs claimed damages for a fire alleged to have been caused by a spark from an engine belonging to the defendants, due to the negligence of the defendants or their servants.

The railway company had prepared for their solicitor's information detailed accounts as to what engines were in the siding at the time of the fire, time-tables, day-sheets, and other documents shewing the movements of the engines and the men who were then at work, and in their affidavit of documents they claimed that these were privileged.

Held, that these documents came within the principle laid down in *Southwark and Vauxhall Water Co. v. Quick* (3 Q. B. D. 315; 26 W. R. 341), and, affirming Bucknill, J., that the court was entitled to see the documents, but reversing Bucknill, J., that they were privileged from inspection.—BIRMINGHAM AND MIDLAND MOTOR OMNIBUS CO. v. LONDON AND NORTH WESTERN RAILWAY, C.A., 752.

7. *Joinder of defendants—Parties—Separate causes of action—Claim for damages—Rules of the Supreme Court, XVI. 1 and 4.*—The plaintiff brought one action against two defendants claiming an injunction and damages in respect of an alleged wrongful use of a right of way. One of the defendants took out a summons asking that the plaintiff might be ordered to elect against which defendant he would proceed, and that the motion might be dismissed with costs against the other defendant.

Held, that in this case the extent of each defendant's right of way, the extent of the damage done, and the liability of each defendant for the acts of his servants would all be separate questions, and would prevent the operation of the extended rule 1 of order 16, and would leave the case still within the ruling in *Sadler v. Great Western Railway Co.* (1896, A. C. 450), and accordingly that the action must be stayed against one defendant, but without prejudice to the right of the plaintiff to commence separate pro-

ceedings against the dismissed defendant.—*MUNDAY v. SOUTH METROPOLITAN ELECTRIC LIGHT CO., Swinfen Eady, J.*, 427.

8. *Joiner of local authority as defendant—Motion to strike out—Declaration only asked—Right of local authority to aid in defending—Rules of Supreme Court, XVI. 11, XXV. 5—Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 26.*—Where an action for trespass is brought against persons who claim a right of way, and the highway authority of the district resolve to assist the defendants in proving that there is such a right of way, such highway authority can be added as defendants to the action.

The owner of an estate closed and locked the gates of a carriage drive upon the estate, with the object of excluding the public. Three persons broke the locks and entered upon the drive for the purpose of asserting a public right of way over it, upon which the owner brought an action against them for trespass. The Andover Rural District Council, acting under the provisions of section 26 of the Local Government Act, 1894, passed a resolution that the council should assist the defendants in the action, in order that the right of way might be maintained, and instructed the clerk to the council to take all necessary steps. The owner thereupon obtained leave to amend his statement of claim in the action by adding the council as defendants, and claimed against them a declaration that there was no right of way, together with an injunction to restrain them from so asserting.

Held, following the decisions in *Shafto v. Bolckow, Vaughan & Co.* (1887, 34 Ch. D. 705), and *Hext v. Gill* (1869, L. R. 7 Ch. 669), that although the council had not themselves or by their agents entered upon the land, nor taken any active part in the dispute, nevertheless, as claiming a right to assist in the assertion of the right of way, they were properly joined as parties to the action.—*THORNHILL v. WEEKS, Swinfen Eady J.*, 477; 1913, 1 Ch. 438.

9. *Liquidated demand—Judgment in default of appearance—Mistake—Overstatement of amount due—Setting aside judgment—Ord. XIII, r. 3*—Where a plaintiff has signed judgment against a defendant in default of appearance for a liquidated demand in excess of the sum actually due, the original debt having been reduced by a payment made by a surety on account, the defendant, failing amendment by the plaintiff, is entitled to have the judgment set aside.

Hughes v. Justin (1894, 1 Q. B. 667) followed.

Decision of Bucknill, J., reversed.—*MUIR v. JENKS & Co., C.A.*, 476; 1913, 2 K. B. 412.

10. *Order declaring priorities—Order for foreclosure or sale by the Court of Appeal—Appeal to the House of Lords—Time for redemption extended—Application for extension of time to Court of First Instance—Rules of the Supreme Court, 1883, LXIV. 7.*—An application to extend the time for redemption under a foreclosure order made by the Court of Appeal, where the question decided by the appellate tribunal was mainly a question of priorities, is an application dealing with the working out of the details of the order, and is not an application in the nature of a stay of execution, and accordingly such an application is properly made in the Court of First Instance, and not in the Court of Appeal.—*FRANKS v. WHITELEY, Sargent, J.*, 391; 1913, 1 Ch. 581.

11. *Parties—Ord. XVI. 1—Defendants liable in the alternative—Non-suit as against one defendant—New trial as against that defendant—Accident to public couch—Onus of proof of soundness.*—A bus belonging to T upset owing to a wheel being wrenched off by tramlines belonging to C, so that the plaintiff, a passenger, was injured. In an action against T and C, in the alternative the judge non-suited the plaintiff as against T, and the jury found in favour of C, after evidence had been called by the plaintiff to prove that the bus was sound and that the accident was due to a defect in the tramline.

Held, that there was some evidence of negligent driving, and that the onus lay on T to prove that the bus was sound, and that the attempt of the plaintiff to prove in the first trial that the bus was sound was no objection to granting him a new trial.—*LILLY v. TILLING, C.A.*, 59.

12. *Payment out—Dormant fund—Scotch law—Judicial factor—Fund in court—Absence of beneficiaries—Ord. XXII. 12b—Judicial Factors (Scotland) Act, 1889 (52 & 53 Vict. c. 39), ss. 13, 14.*—It is contrary to the practice of the High Court to pay out a dormant fund to a party legally entitled to it without the beneficiaries being before the court. This rule applies notwithstanding that the person applying for payment is a judicial factor appointed under Scotch law.—*GORDON v. SMITH, Neville, J.*, 595.

13. *Pleading—Highway—District council joined as co-defendants—Question of right of way—Defence put in by district council—Right of way neither claimed nor denied by council—Motion to strike out defense as embarrassing—Ord. XIX. 27—Ord. XXV. 4—Local Government Act, 1894 (56 & 57 Vict. c. 73), s. 26.*—Where a rural district council, in accordance with section 26 of

the Local Government Act, 1894 (56 & 57 Vict. c. 73), resolve to defend an action brought against some inhabitants of the district to try a right of way, they are entitled by their defence to allege that they neither claim nor deny that the public right of way which is claimed by their co-defendants in fact exists. Such a pleading on behalf of the defendant council, although probably put in with the object of escaping liability for costs if the action is decided in favour of the plaintiffs, is not embarrassing, and does not infringe any rule of pleading. It is not necessary that the council should allege that they claim the right of way.

See *Thornhill and Another v. Weeks and Others* (57 SOLICITORS' JOURNAL 477).—*THORNHILL v. WEEKS* (No. 2), *Neville, J.*, 645.

14. *Pleading—Particulars—Action for libel—Particulars of justification—Disclosing names of probable witnesses—Betting transactions.*—In an action for libel, where the defendant has pleaded justification, he is bound to furnish the plaintiff with the fullest particulars of the acts which it is alleged that he has committed, and upon which the defendant intends to rely. The defendant cannot refuse to give such particulars merely on the ground that to do so would necessarily involve disclosing the names of witnesses whom he intends to call at the trial.

Zierenberg v. Labouchere (1893, 2 Q. B. 183) applied.—*WOOTTON v. SIEVIER, C.A.*, 609.

15. *Service—Originating summons—Foreclosure—Mortgage of personal estate—Service out of the jurisdiction—Order XI., r. 1 (e).*—An action commenced by the issue of an originating summons against a mortgagor asking for foreclosure of a mortgage of personal estate is not an action "founded on contract or alleged breach of contract" within order 11, rule 1 (e), and the summons cannot be served out of the jurisdiction.—*HUGHES v. OXENHAM, C.A.*, 158; 1913, 1 Ch. 254.

16. *Transfer of action—Administration—Insolvent estate—Transfer to bankruptcy—Discretion—Bankruptcy Act, 1883 (46 & 47 Vict. c. 52), s. 125, sub-section 4—Bankruptcy Act, 90 (53 & 54 Vict. c. 71), s. 21.*—The jurisdiction to transfer administration proceedings from the Chancery Division to the Bankruptcy Court under section 125 of the Bankruptcy Act, 1883, may be exercised at any stage of the proceedings and therefore after judgment. Such an order will be made where the principal questions to arise will be outside the administration action.—*RE TARR, Eve, J.*, 60.

17. *Transfer of county court action to High Court—Discretion of judge ordering removal—County Courts Act, 1888 (51 & 52 Vict. c. 43), s. 126.—Per Lush, J.*—Section 126 of the County Courts Act, 1888, which deals with the removal of county court actions into the High Court is not confined to cases where the only consideration is whether the county court action is more fit to be tried in the High Court than in the county court. The section is framed to give the widest discretion to the court and to enable it, in any case, if it thinks it desirable, looking at all the circumstances, that a county court action should be tried in the High Court, to order its removal into the High Court.—*CHALLIS v. WATSON, K.B.D.*, 285; 1913, 1 K. B. 547.

See also *Appeal—Camera, Hearing in—Injunction.*

PRINCIPAL AND AGENT :—

Advance made to manager with knowledge that he had no authority to borrow on behalf of his company—Money in part applied in payment of company's debts—Right of lender to recover from principal money so used.—The plaintiffs lent money to the managing director of a company, who applied practically the whole of the loan in paying off the company's debts.

In an action to recover the amount of the loan from the company, Scruton, J., held that the company were not liable, because the managing director, to the knowledge of the plaintiffs, had no power to pledge the credit of the company.

On appeal (Vaughan Williams, L.J., dissenting) held that, on the facts, the money was purported to be lent to the company, and, it having been mainly used for the benefit of the company in paying off debts then existing, the effect of the loan was to create a new creditor without increasing the company's indebtedness, and the question of the lender's knowledge of the agent's limitations as regards borrowing was not material to the issues.

The principle laid down by Lord Selborne, L.J., in *Blackburn Building Society v. Cunliffe, Brooks & Co.* (52 Ch. D., at p. 70), held to apply, and judgment entered for the plaintiffs against the company for the amount to which the money borrowed had been applied to the benefit of the company.—*REVERSION FUND AND INSURANCE CO. v. MAISON COSWAY, C.A.*, 144; 1913, 1 K. B. 364.

See also *Stockbroker.*

PROBATE :—

1. *Administration—Creditor's application—Small estate—Informal notice to widow—Citation dispensed with—Court of*

Probate Act, 1857 (20 & 21 Vict. c. 77), s. 73.—On the application of a creditor for administration of a small estate, the court made the grant under section 73 of the Court of Probate Act, 1857, on proof of notice of application to the widow, without requiring her to be cited.—*IN THE GOODS OF BISHOP, P.D.*, 611.

2. *Commorientes—Application to registrar first—Practice.*—In at case of commorientes application for a grant should, in the first instance, be made to a registrar.—*RE ROBY, P.D.*, 98; 1913' P. 6.

3. *Estate in England of late King of Siam—Grant of letters of administration to attorney of present sovereign—Bond, without sureties, to be given by grantee.*—Where a grant of letters of administration to the estate in England of a foreign sovereign was made to the attorney of his successor, the court ordered the grantee to give a bond, but without sureties.—*RE CHULALONGKORN, P.D.*, 61.

4. *Grant of letters of administration to trustee in bankruptcy—Conditions on which grants are issued.*—The husband of a deceased lady having renounced his right to take out letters of administration to her estate on being adjudicated bankrupt, letters of administration to her personal estate were granted to his trustee in bankruptcy. Later, the bankruptcy having been annulled and the trustee in bankruptcy having been released, the grant to him was not revoked. The letters of administration were handed by him to the Official Receiver with the file and had been lost, "having been very probably destroyed with the file." Application to retract the renunciation by the husband of the deceased of his right to a grant, for revocation of the grant to the trustee in bankruptcy, and for a grant of administration *de bonis non* to the husband of the deceased was granted. In future when a grant is issued to anyone it will be on the understanding that it shall be returned to the Registry if required.—*IN THE GOODS OF HEATHCOTE, P.D.*, 266; 1913, P. 42.

5. *Incompetence of executor to take probate—Criminal conviction of executor—Refusal to renounce—Grant with will annexed to universal legatee—Court of Probate Act (20 & 21 Vict. c. 77), s. 73.*—Where an executor, though willing, is not competent to take probate by reason of his being in prison, the court, under the provisions of section 73 of the Court of Probate Act, will pass over the executor on that ground, and make a grant under the same section to such person as it may think fit.—*RE DRAWMER, P.D.*, 534.

6. *Supposed intestacy—Grant of letters of administration—Sale of land by administratrix—Subsequent discovery of a will—Application to set aside sale—Invalidity of purchaser's title—Land Transfer Act, 1897 (60 & 61 Vict. c. 65), ss. 1, 2, and 24—Court of Probate Act, 1857 (20 & 21 Vict. c. 77).*—A man died in 1899 and no will was discovered, and letters of administration were granted to his widow, who in 1902 sold thereunder certain freehold property and invested one-third of the proceeds of sale thereof as dower, and divided the remainder among his heirs. On the death of the widow her husband's will was discovered, by which he had bequeathed the said freehold property to her for life, and afterwards to his cousin. The letters of administration having been revoked, and probate of the will granted to the executors thereof, and an action commenced by them against the purchaser of the said property to set aside the sale,

Held, that the sale, not having been for the purpose of paying estate duty, debts or legacies, must be set aside on the plaintiff's undertaking to hand over the dower fund in exchange for the title deeds.—*HEWSON v. SHELLEY, Astbury, J.*, 717.

RAILWAY:—

Appointment of receiver and manager—Petition by assignee of judgment creditor—“Person who has recovered judgment”—Railway Companies Act, 1867 (30 & 31 Vict. c. 127), s. 4.—An assignee of a judgment creditor is a person who has “recovered judgment” within the meaning of section 4 of the Railway Companies Act, 1867, and may therefore petition for the appointment of a receiver and manager of the undertaking of the company.

Goodman v. Robinson (18 Q. B. D. 332) applied and followed.—*RE FRESHWATER, YARMOUTH AND NEWPORT RAILWAY, Eve., J.*, 593.

See also Mines.

RATING:—

1. *General rate under local Act—Partial exemption of land used as railway—Works and conveniences at goods station—Liverpool Corporation Act, 1893 (56 & 57 Vict. c. clxxxi.), s. 36.*—In an appeal by a railway company upon a case stated, raising the question whether partial exemption given by the proviso of a local Act applied to land used for works and conveniences, or for the purpose of a

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railway company, including the business of carriers, as distinguished from land used as a railway,

Held, that the expression “land used as a railway” was not confined to so much only of the land on which traffic was conveyed from point to point, and that the partial exemption applied to “sidings, turntables and land thereunder, and to hoist-houses and land thereunder, capstans and their machinery, but did not include cranes.”

Decision of Divisional Court (10 L. G. R. 575; 107 L. T. 264) varied and appeal of railway company allowed with costs in that court, no costs on either side as to proceedings prior to the appeal.—*LANCASHIRE AND YORKSHIRE RAILWAY v. LIVERPOOL CORPORATION, C.A.*, 557.

2. *Poor rate—Tenement houses—Rating of owners instead of occupiers—Parliamentary borough—Tenement wholly let out in apartments or lodgings—Representation of the People Act, 1867 (30 & 31 Vict. c. 102), s. 7—Poor Rate Assessment and Collection Act, 1869 (32 & 33 Vict. c. 41), s. 3.*—The owner of a dwelling-house, let out in apartments or lodgings, situated in a parish which had become a parliamentary borough subsequently to the year 1867, was rated in respect thereof to the poor rate, and was allowed the percentage or abatement allowed to owners of hereditaments of not more than the specified rateable values by section 3 of the Poor Rate Assessment and Collection Act, 1869. The auditor having surcharged the amount allowed the owner from the full rate, a rule nisi was obtained for a certiorari to quash the surcharge.

Held, that the surcharge had rightly been made by the auditor, as the full amount of the rate should have been collected under section 7 of the Representation of the People Act, 1867, for the words in that section “situate in a parish wholly or partly in a borough” applied to parishes which were or had become parliamentary boroughs since the passing of that Act.

Rule discharged accordingly.—*REX v. ROBERTS, C.A.*, 644.

3. *Poor rate—Rateable occupation—Gathering ground for reservoirs—Acquisition to prevent pollution of water—Acts of occupation by owner—A corporation acquired a large area of land adjoining their reservoirs which formed the gathering ground or water trap for their reservoirs. To obviate all chance of pollution of water so gathered, they closed the farms and allowed the land to be unoccupied. A small part of the newly acquired land they utilized as plantations and nurseries for young growing timber, and let the shooting rights over the remainder as a grouse moor for £300 a year for a term of years, the lessee being separately rated in respect of his shooting rights.*

Held, that the corporation had such reservation and use of the gathering ground as a whole as to render them, as beneficial owners, liable to be assessed to poor rate in respect not merely of the plantations and nurseries, but of the whole area.

Decision of Court of Appeal (56 SOLICITORS' JOURNAL, 187; 1912, 1 K. B. 270) affirmed.—*LIVERPOOL CORPORATION v. CHORLEY UNION, H.L.*, 263; 1913, A. C. 197.

4. *Street tramways—Partial exemption of land used as a railway constructed under the powers of any Act of Parliament—Public Health Act, 1875 (38 & 39 Vict. c. 55), s. 211 (1) (b).*—The respondents were incorporated by Acts of Parliament for constructing and working under the powers given by the Tramway Act, 1870, certain tramways on streets within the district of the appellant urban district council.

Held, that the undertaking of the respondent company did not come within the category of a “railway” constructed under the Light Railway Acts, but was a “tramway,” and consequently in

respect of their occupation of the land used for the tramway the respondent company were not entitled to be assessed by the urban council to the district rate in the proportion of one-fourth part only of the net annual value of such land.

Swansea Improvements and Tramway Co. v. Swansea Urban Sanitary Authority (1892, 1 Q. B. 357, 61 L. J. M. C. 124) approved and followed.

Decision of Court of Appeal (56 SOLICITORS' JOURNAL, 290; 1912, 2 K. B. 216) reversed.—*TOTTENHAM URBAN COUNCIL v. METROPOLITAN ELECTRIC TRAMWAYS, H.L.*, 739.

5. *Valuation—Metropolis—Scale of maximum deductions from gross value—Blocks of buildings let out in separate tenements separately rated—Valuation (Metropolis) Act, 1869 (32 & 33 Vict. c. 67), s. 52, Schedule III.*—Schedule III. of the Valuation (Metropolis) Act, 1869, sets out the various classes into which hereditaments entered in the valuation list under the Act are to be divided for the purpose of arriving at the maximum rate of deductions set out in the second column from the gross value for the purpose of ascertaining the rateable value. The footnote states: "The maximum rate of deductions prescribed in this schedule shall not apply to houses or buildings let out in separate tenements, but the rate of deductions in such cases shall be determined as in classes 9, 10, and 11."

Held, in the case of a block of buildings divided into flats, in respect of which each tenant was entered in the valuation list as a rateable occupier, and in every rate the tenant had been rated in respect of the occupation of his flat, and not the owners; that each block was "a house or building let out in separate tenements" within the meaning of the footnote to the Third Schedule, notwithstanding that the flats were separate rateable hereditaments: and that, therefore, in arriving at the rateable from the gross value of the flats the Assessment Committee were not bound by the maximum rate of deductions prescribed by that schedule.

Western v. Kensington Assessment Committee (1907, 2 K. B. 325; 76 L. J. K. B. 790) (affirmed on other grounds in Court of Appeal, 1908, 1 K. B. 811; 77 L. J. K. B. 328) followed.—*CONSOLIDATED LONDON PROPERTIES v. ST. MARYLEBONE ASSESSMENT COMMITTEE, C.A.*, 576.

RECEIVER:

Company—Appointment by debenture-holders of receiver and manager—Notice given of a preferential claim—Subsequent payments to ordinary creditors in carrying on business—No payment to the debenture-holders—Loss of assets—Liability to the preferential creditors—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 107.—A receiver and manager of a company, appointed on behalf of the debenture-holders, with notice of a preferential claim, is liable for damages in tort for exhausting the then assets of the company in making payments to ordinary creditors, without first applying such assets or a sufficient part thereof in satisfying that preferential claim in accordance with the provisions of section 107 of the Companies (Consolidation) Act, 1908.—*Woods v. WINSKILL, Astbury, J.*, 740.

See also Company, Practice, Railway.

RESTRAINT OF TRADE:

1. *Agreement by employee not to be engaged in a business the same as, or similar to, that of employers—Area of restriction—Reasonableness—Protection of employers' business.*—By an agreement for the employment of the defendant by the plaintiffs, a company described in the agreement as carrying on business "at London, in the county of Middlesex," it was agreed by the defendant that he would not, *inter alia*, within three years after the termination of the employment, be in the employment of any person, firm or company carrying on a business of the same nature as or similar to that of the company "within twenty-five miles of London aforesaid where the company carry on business." The Court of Appeal, reversing the decision of a Divisional Court, held that the agreement was not too vague or indefinite as regarded the area of the intended restriction to be enforced by injunction.

Held, that, assuming in the company's favour that the twenty-five miles' limit applied to every branch of the restrictive clause in the agreement, and that the clause was not too vague by reason of the words "London, in the county of Middlesex," the respondents had failed to discharge the *onus* upon them of shewing that the restriction which they sought to impose on the appellants was not wider than was reasonably required for the protection of their business.

Decision of Court of Appeal (1913, 1 K. B. 65; 82 L. J. K. B. 225) reversed.—*MASON v. PROVIDENT CLOTHING AND SUPPLY CO., H.L.*, 739.

2. *Contract—Covenant—Vagueness—Canvasser—Not to be engaged in a similar business "within twenty-five miles of London."*—

The defendant, a collector and canvasser for the plaintiffs, agreed that for three years from the termination of his agreement with them he would not enter the employment of any person, firm, or company carrying on a business similar to that carried on by the plaintiffs, nor assist in carrying on such a business "within twenty-five miles of London aforesaid where the plaintiffs carry on business." Shortly after leaving the plaintiffs' employment he entered the service of a firm carrying on a similar business at premises close to those of the plaintiffs.

Held that, although the area was geographically vague, nevertheless it was not too indefinite for an injunction to be granted, as there was no difficulty in deciding on the evidence that the alleged breach came within the area contemplated by the parties within which the defendant should not serve another firm carrying on a similar business to that of the plaintiffs, who supplied clothing on the cheque and credit system.

Decision of Divisional Court (reported 28 T. L. R. 377) reversed.—*PROVIDENT CLOTHING AND SUPPLY CO. v. MASON, C.A.*, 58; 1913, 1 K. B. 65.

See also Covenant.

REVENUE:

1. *Estate duty—Exemption—Settled property—Covenant to settle after-acquired property—Probate duty paid before Act—Finance Act, 1891 (57 & 58 Vict. c. 30), s. 21 (1).*—By a marriage settlement made in 1885 the settlor settled property upon trust for himself, and after his death upon trust for his wife for life, with remainder to his children, and he covenanted to settle after-acquired property. In 1885 and again in 1888 the settlor received legacies under wills in respect of which probate duty was paid. The settlor died in 1889, and on the death of his wife in June, 1912, estate duty was claimed in respect of the said two legacies. The trustees of the settlement claimed exemption under section 21 (1) of the Finance Act, 1894.

Held, that estate duty was payable.—*RE VISCOUNTESS TORRINGTON, Eve, J.*, 730.

2. *Estate duty—Heirlooms—Finance Act, 1896 (59 & 60 Vict. c. 28), s. 20—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), s. 63.*—A testator bequeathed certain heirlooms, which had been certified by the Treasury to be of national, scientific, historic, or artistic interest within the meaning of section 20 of the Finance Act, 1896 (59 & 60 Vict. c. 28) to devolve with his freehold estates, but any person for the time being entitled to enjoy the heirlooms might, after the expiration of five years from the death of the testator's wife, and if such person was of the age of twenty-five years, sell all or any of the heirlooms without an order of the court. The will provided that the duties should be paid out of the general personal estate.

Held, that if and when any legacy, estate or succession duty (if any) became payable in respect of these heirlooms it would not be payable out of the testator's general personal estate.

In Re Lord Leconfield, deceased; Wyndham v. Lord Leconfield (90 L. T., p. 399) followed.—*RE LORD SWATHLING, Neville, J.*, 173.

3. *Estate duty—Reversionary interest—Finance Act, 1894, ss. 6 (2), 7 (6), 8 (3) and (4)—Reversionary interest passing to executors—Liability for, as between executors and trustees.*—Where a reversionary interest expectant on the death of the testator's widow, arising under his marriage settlement, passes to his executors on his death, the estate duty in respect of such interest is payable by the executors out of the general residue, and not by the trustees of the settlement out of the trust funds.

Decision of Warrington, J., reversed.—*RE DIXON* (1902, 1 Ch. 256) overruled.—*RE SIR W. B. AVERY, C.A.*, 112; 1913, 1 Ch. 208.

4. *Income tax—Aggregate revenue from undertakings of corporation—Dividends paid out of profits or gains brought into charge—Income Tax Act, 1842, s. 102.*—The Leeds Corporation having deducted income tax from the dividends paid by them from the dividends fund before paying the same over to the persons entitled, claimed to retain such tax as money already "brought into charge," within section 102 of the Income Tax Act, 1842.

Held, allowing the appeal of the Surveyor of Taxes, that the Leeds Corporation Act, 1901, distinguished between a fund to be created by a mandate of the Legislature and an account to be kept of that fund for its due administration; that it preserved instead of repealing the provisions of the earlier Acts, by which it was assumed that certain dividends were properly payable out of the several revenues respectively instead of being permissibly payable in general out of all resources in the aggregate; and that the portions of the income received in respect of the particular undertakings remained distinguishable portions of interest, although the security for the loans had been unified; and that therefore the dividends in question could not be treated as having been paid out of the profits which had already been brought into charge to the

tax, and the corporation were not entitled to retain the tax deducted from such dividends.—*SUGDEN v. LEEDS CORPORATION*, H.L., 425.

5. *Income tax—Company—Foreign investments—Interest of, not remitted home—Objects of company—Adventure—Income Tax Act, 1842 (5 & 6 Vict. c. 35), s. 100, Sched. D—First, fourth and fifth cases—Income Tax Act, 1853 (16 and 17 Vict. c. 34), s. 2, Sched. D.*—Held, that investments which were made by an English insurance company abroad, in accordance with the requirements of the laws of the United States, Canada and Australia, the interest or dividends of which were not remitted to or received by the company in the United Kingdom, formed part of the balance of profits and gains of the company, and were therefore assessable under the first case of Schedule D of section 100 of the Income Tax Act, 1842.

Decision of Court of Appeal (1911, 2 K. B. 577) affirmed:

Norwich Union Fire Insurance Co. v. Magee (44 W. R. 384) followed.—*LIVERPOOL, LONDON AND GLOBE INSURANCE CO. v. BENNETT*, H.L., 739.

6. *Income tax—Deduction at the source after the resolution of the Committee of the House of Commons for Ways and Means, but before the passing of the Act imposing the duty—Irish Land Act, 1903 (3 Ed. 7, c. 37), ss. 31 and 32—National Debt Act, 1870, (33 & 34 Vict. c. 71), ss. 14 and 15—Bill of Rights (1 Wm. and Mary (Session 2), a.d. 1688, c. 2)—Customs and Inland Revenue Act, 1890 (53 & 54 Vict. c. 8), s. 30—Income Tax Assessment Act, 1870 (33 & 34 Vict. c. 4).*—A resolution of the Committee of the House of Commons for Ways and Means has no legal effect whatever. No practice or custom, however prolonged or acquiesced in on the part of the subject, can be relied on by the Crown as justifying any infringement of the Bill of Rights. No statutory authority for the collection of income tax in accordance with the terms of a resolution of the Committee of the House of Commons for Ways and Means, but before the passing of the Act imposing the income tax, should be implied from a consideration of other statutes. Such an important statutory authority should be expressly provided for.—*BOWLES v. BANK OF ENGLAND*, Parker, J., 43; 1913, 1 Ch. 57.

7. *Income tax—Deduction of premiums—Insurance on life—Endowment policy—Income Tax Act, 1853, s. 54*—A policy of insurance securing the payment of £100 on the death of the assured before a certain future date, or if he should be then living, a payment to him of £200, creates an insurance "on his life" within the Income Tax Act, 1853, section 54, and the assured, for the purposes of assessment of his income, is entitled to deduct the whole premium payable by him, and not merely so much of it as is attributable to the payment of £100 on his death.—*GOULD v. CURTIS*, C.A., 461; 1913, 3 K. B. 84.

8. *Income tax—Golf club—Visitors' fees—Profits—Method of calculation—Income Tax Act, 1842, Schedule D.*—A golf club occupied land used as links under a lease, one of the clauses of which required the club to permit visitors to play on the links on payment of certain fees. The annual expenses of the club in maintaining the course exceeded the total of the members' subscriptions, and also of the visitors' fees, each taken separately, but were less than both sources of income taken together. A proportion of the expenses incurred were attributable to the use of the links by visitors.

Held, that the club was carrying on a business for profit or gain, beyond the ordinary functions of a club, and was liable to be assessed to income tax under Schedule D in respect of the profits derived from such business.

Decision of Hamilton, J. (1912, 2 K. B. 177), affirmed.—*CARLISLE AND SILLOTH GOLF CLUB v. SMITH*, C.A., 532; 1913, 3 K. B. 75.

9. *Income tax—Person residing in the United Kingdom—Company incorporated and registered abroad—Extraordinary meetings of board of directors held in England—Control specifically given over certain matters by the by-laws.*—A finding of the Commissioners of Income Tax that the control of a company registered abroad is in England is a finding of fact which can only be impugned if there is no evidence at all on which such finding can be supported. The question of residence is a question of law, and a foreign company is a person residing in the United Kingdom within the meaning of section 2, Schedule D, of the Income Tax Act, 1853, if the place where its real business is carried on, in the sense that it is from there that the management and control is exercised, is within the United Kingdom, although that place is a branch office.

Principle laid down in *De Beers Consolidated Mines v. Howe* (1908, A.C. 455) followed.—*AMERICAN THREAD CO. v. SURVEYOR OF TAXES*, H.L., 321.

10. *Increment value duty—Assessable site value—Minus value—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), s. 25 (4).*—Under Section 25 (4) of the Finance (1909-10) Act, 1910, the "assessable site value" of land may be a minus quantity.

Decision of the Court of Session (1912, Sess. Cas. 941, 49 Sc. L. R. 639) reversed.—*INLAND REVENUE COMMISSIONERS v. HERBERT*, H.L., 516.

11. *Inhabited house duty—Premises "belonging to and occupied with" a house—House Tax Act, 1808 (48 Geo. 3, c. 55), Schedule B, r. 2.*—School buildings in the occupation of the governing body of a school, and used daily by scholars who inhabit other buildings forming part of the school, are assessable to inhabited house duty within the House Tax Act, 1808, although they are also used by other boys who do not reside in the school at all.

Decision of Horridge, J., reversed.—*REITH v. WESTMINSTER SCHOOL*, C.A., 499.

12. *Mineral rights duty—Copyholds—Right to let down surface—Right to work minerals—Finance (1909-10) Act, 1910 (10 Ed. 7, c. 8), s. 20.*—The lords of a manor having demised the minerals under copyhold lands, which they were entitled to work provided they did not let down the surface, to a mining company for a term of years, the copyholder granted to the lessees the right to work and get all the coal and minerals under his land without leaving any support for the surface, in consideration of a rent based on the tonnage of minerals worked.

Held, that this was merely the grant of a right to let down the surface, and not of a right to work minerals, and therefore not assessable to mineral rights duty under the Finance (1909-10) Act, 1910.—*INLAND REVENUE COMMISSIONERS v. JOICEY*, C.A. 557; 1913, 2 K. B. 580.

13. *Reversion duty—Exemption of reversion "purchased"—Marriage settlement—Finance (1909-10) Act, 1910, s. 14, sub-section 1.*—Where a reversion expectant upon the determination of a lease is conveyed by a marriage settlement dated before the 30th of April, 1909, the reversion is not "purchased" within the meaning of the exemption from duty contained in the Finance (1909-10) Act, 1910, s. 14 (1).—*COMMISSIONERS OF INLAND REVENUE v. GRIBBLE*, C.A., 476.

14. *Reversion duty—Surrender of lease and grant of new lease—Benefit accruing to lessor—Compensation—Finance (1909-10) Act, 1910, s. 13, sub-section 2—Revenue Act, 1911, s. 3, sub-section 2.*—A reversioner in fee in 1910 accepted the surrender of two leases which would have expired in 1966 and 1968, and expressly in consideration for such surrender granted to the lessee a new lease of the same premises at the same rent, expiring in 1979. The Commissioners claimed reversion duty upon certain sums calculated as being the value of the benefit accruing to the lessor by reason of the determination of the leases.

Held, that the grant of the new lease was not compensation payable by the lessor and capable of being deducted within section 13 (2), and that reversion duty was payable on the surrender.

Decision of Horridge, J., reversed.—*INLAND REVENUE COMMISSIONERS v. ANGLESEY*, C.A., 517; 1913, 2 K. B. 48.

15. *Settlement estate duty—Voluntary settlement reserving no benefit to settlor—Property "passing under a disposition on the death of the deceased"—Finance Act, 1894 (57 & 58 Vict. c. 30), s. 2, sub-section 1 (c); s. 5.*—Where property is settled by a voluntary disposition, not reserving a life or other interest to the settlor, it passes immediately under that disposition, and cannot be deemed to pass upon his death in the event of his dying within three years from the date of its execution; and therefore no settlement estate duty under the Finance Act, 1894, is payable in respect thereof.

Decision of Horridge, J., reversed.—*ATTORNEY-GENERAL v. MILNE*, C.A., 532; 1913, 2 K. B. 606.

ROAD :—

New road—Building scheme—Plan showing road space—Plan approved by local authority—Road constructed and made up—Cul-de-sac—Private road—Subsequent conveyance of part of road at the blind end—Power to resume ownership of that part—Building across—Dedication to public—Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 4, 175—Paignton Improvement Act, 1898 (61 & 62 Vict. c. clvii.), s. 50—Public Health Act, 1907 (7 Ed. 7, c. 53), s. 17.—The owner of a private road not dedicated to the public can always resume ownership of such road at common law, unless there is any local statute preventing him from doing so. The mere fact of the public not having been prevented from walking about on such road would not affect his rights provided that no public rights were interfered with by such resumption of ownership.—*KIRBY v. PAIGNTON DISTRICT COUNCIL*, Neville, J., 266; 1913, 1 Ch. 337.

See also Tramway.

SALE OF GOODS:—

1. *Contract—Sale of goods to be manufacture*—Company—Voluntary liquidation—Failure to accept delivery—Measure of damages.—A company entered into a contract with a firm of engineers for the manufacture of machinery intended for their cotton mill, but went into voluntary liquidation at a time when only a small part of the machinery had been completed and before any had been delivered.

Held that, there being no available market for the goods, the measure of damages for the breach of contract was the profit which the manufacturers would have made if the contract had been carried out, and that they were entitled to prove for that amount in the liquidation.

Decision of Neville, J. (*ante*, p. 211; 1913, 1 Ch. 183) affirmed.—RE VIC MILL (LIM.) C.A., 404; 1913, 1 Ch. 465.

2. *F.O.B.—Shipment by seller—No notice of shipment given to buyer—Sale of Goods Act, 1893 (56 & 57 Vict. c. 71), s. 32, sub-section 3.*—Section 32 (3) of the Sale of Goods Act, 1893, which provides that “unless otherwise agreed, where goods are sent by a route involving sea transit, under circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their sea transit, and, if the seller fails to do so, the goods shall be deemed to be at his risk during such sea transit,” has no application to contracts for the sale of goods on f.o.b. terms.—WIMBLE v. ROSENBERG, K.B.D., 392, aff. C.A. 784; 1913, 1 K.B. 279.

SCHOOL.—See Education.

SETTLED LAND:—

1. *Future and conditional trust for sale—Tenant for life and sole trustee—Trustee for purposes of Act—Power to give receipts*—Settled Land Act, 1890 (53 & 54 Vict. c. 69), s. 16, sub-section (ii).—A sole trustee with a conditional trust for sale who is also tenant for life of settled estates is a trustee for the purposes of the Settled Land Act, and is entitled to receive and give a good discharge for the purchase money of any part of the settled estate sold by him as tenant for life.—RE THOMAS JOHNSON'S SETTLED ESTATES, Eve, J., 717.

2. *Improvements—Authorized Improvements—Costs and expenses payable out of capital—Compensation to agricultural tenants*—Settled Land Act, 1882, s. 25.—A tenant for life of settled estates was authorized by the trustees to lay out a golf course. For this purpose it became necessary to buy out an agricultural tenant and pay him compensation.

Held, affirming Joyce, J. that the costs and expenses so involved were not payable out of capital, and could not be recouped to the life tenant.—RE COODEN BEACH ESTATE, C.A., 42; 1913, 1 Ch. 142.

3. *Improvements—Capital money—Tenant for life and remaindermen—Scheme—Settled Land Act, 1882 (45 & 46 Vict. c. 38) s. 25, sub-section (xix)—Coal Mines Act, 1911.*—The alterations and improvements which are rendered necessary by the Coal Mines Act, 1911, are improvements within the meaning of the Settled Land Act, 1882, s. 25 (xix), and may therefore be paid for out of capital money.—RE HANBURY'S SETTLED ESTATES, Eve, J., 61; 1913, 1 Ch. 50.

4. *Leasehold property—Rents and outgoings to be paid out of residue—Sale by tenant for life—Specific bequest—Ordinary application of proceeds of sale—Additional allowance out of the residue in respect of rent and outgoings*—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 51.—A testator left a leasehold house to his wife till her decease or second marriage, and directed that his trustees should pay all the rent, rates, and taxes in respect thereof out of his general estate. These amounted to £160 per annum. After some years the wife sold the lease under her statutory power of sale, and now claimed (1) such an annuity as would exhaust the sale moneys in the eleven years the lease had still to run; (2) an annuity of £160 during the continuance of the lease.

Held (1), following *Askev v. Woodhead* (1884, 14 Ch. D. 27), that she was entitled to the first annuity which she claimed; (2) that she was not entitled to the £160 per annum during the continuance of the lease.—RE SIMPSON, Swinfen Eady, J., 302; 1913, 1 Ch. 277.

5. *Mining leases—Leases granted by tenant-for-life under the powers given by the Settled Land Acts—Contrary intention—Settled Land Act, 1882 (45 & 46 Vict. c. 38), s. 11.*—Where a tenant for life granted a mining lease not under the settlement, which contained a power for that purpose, but under her powers under the Settled Land Acts, and the court held that there was a “contrary intention” within the meaning of section 11 of the Settled Land Act, 1882 (45 & 46 Vict. c. 38), no part of the rents and royalties

was ordered to be set aside as capital money.—RE RAYER, Neville, J., 663; 1913, 2 Ch. 210.

6. *Mining lease—Setting aside part of rent as capital—Contrary intention expressed in settlement—Settled Land Act, 1882 (45 & 46 Vict. c. 38), ss. 6, 11, 58.*—A testator gave to his wife all his real and personal property “absolutely in full confidence that she will make such use of it as I should have made myself,” and he directed that his wife should devise it to such of his nieces as she should think fit, and in default that it should go to the nieces equally. On a summons asking whether the widow ought to set aside part of the rent of a mining lease as capital,

Held, that she was entitled to the whole rent, there being sufficient in the will to shew a “contrary intention.”—RE HANBURY'S SETTLED ESTATES (No. 2), Eve, J., 646.

7. *Trustees for purposes of Act—Compound settlement—Appointment*—A testator gave a general power of appointment over his real estate to his wife. After his death she appointed the property by will to W. G. for life, who in exercise of his powers as tenant for life contracted to sell the property. The purchaser objected to the title on the ground that there were no trustees for the purposes of the Settled Land Act of the compound settlement created by the two wills.

Held, that a good title could be made without any further appointment of trustees.—RE GORDON AND ADAMS' CONTRACT, Eve, J., 477.

SETTLEMENT:—

1. *Covenant by wife to settle after-acquired property—Decree nisi for dissolution of marriage—Property acquired between decree nisi and decree absolute—Application of covenant.*—A wife who had covenanted to settle after-acquired property in her marriage settlement became entitled to property after a decree nisi for the dissolution of the marriage had been pronounced, but before the decree had been made absolute.

Held, that the covenant in the marriage settlement applied to the property.—SINCLAIR v. FELL, Warrington, J., 145; 1913, 1 Ch. 155.

2. *Hotchpot clause—Settled fund—Covenant to settle after-acquired property—Trusts by reference—Two funds—Application of the hotchpot clause.*—Where there is a settlement of the husband's fund and the wife's fund, and the settlement contains a hotchpot clause and a covenant to settle the after-acquired property of the wife, the ordinary presumption should be that the hotchpot clause applies to the after-acquired property unless the contrary appears in the settlement.

Re Cavendish Settlement, Grosvenor v. Lady Butler and Others (No. 2) (56 SOLICITORS' JOURNAL, 399; 1912, 1 Ch. 784) distinguished.—RE FRASER'S SETTLEMENT, Sargent, J., 462.

3. *Life estate determinable on alienation—Power to appoint amongst children—Advancement out of appointed and unappointed shares—Release of life interest in appointed shares—Life interest not forfeited.*—The partial exercise in favour of a child who marries of a power of appointment given to a husband and wife by their marriage settlement does not operate to take the appointed share out of the settlement so as to defeat the power to advance to that child given by the advancement clause contained in the settlement.

The subsequent release by the husband of his life interest in the amount advanced does not operate as a forfeiture of a protected life interest in his wife's trust fund given to him by the settlement.—RE HODGSON, Neville, J., 112; 1913, 1 Ch. 34.

4. *Marriage settlement—Covenant to settle after-acquired property—Effect of the covenant in equity—Property bound by the trusts immediately it passed into the settlement—Non-assignment of the property—Position and powers of the trustees.*—A covenant to settle after-acquired property upon certain trusts binds such property in equity immediately it becomes receivable into the settlement funds, and even though it is not in fact added to such settlement funds it is nevertheless trust property, and if it can be traced into the possession of a mere volunteer the trustees of the settlement can claim it from such volunteer or his legal personal representatives.

The judge having examined several of the original documents in the case of *Spickernell v. Hotham* (1851, Kay 669), on which the defendants relied, decided that such case was insufficiently reported, and explained how it differed from the case before the court.—PULLEN v. KOE, Swinfen Eady, J., 97; 1913, 1 Ch. 9.

5. *Portions—Vesting—Younger children—“Eldest or only son”—Second son becoming eldest—Second son entitled.*—A younger son in whom a portion becomes vested, and who subsequently becomes the eldest son before the portion is payable, is entitled to share in the portions fund, if there is enough in the settlement by which the portions were provided to shew that the character of the

younger child was to be ascertained at the time when the portions vested, and not at the time when they fell into possession.

Windham v. Graham (1 Russ. 331) followed.—*RE WISE, SMITH & WALLER, Eve, J.*, 28 ; 1913, 1 Ch. 41.

6. *Will—After-acquired property—Devise to next-of-kin of life tenant—Presumption as to who is next-of-kin—Interest in expectancy—Spes Successionis.*—A covenant in a marriage settlement to settle "any estate or interest whatsoever in possession, reversion, remainder or expectancy" was held to catch a fund which was settled by a will on another with a gift over, if that other died without issue, to her next-of-kin, because the covenantor had not merely a *spes successionis* to this fund, but an actual interest in expectancy as one of the presumptive next-of-kin of that other.—*RE MUDGE'S SETTLED ESTATE*, *Neville, J.*, 578 ; 1913, 2 Ch. 92.

7. *Will—Trust of separate fund created by the will by reference to trusts of the settlement—After-acquired property clause in settlement—Clause in settlement enabling wife to raise a limited amount for her separate use by appointment—Similar amount raised from will fund is caught by after-acquired property clause.*—A trust of a fund bequeathed by will declared by reference to the trusts of a marriage settlement, there being separate grantors, separate instruments, and separate trustees, creates a separate settlement in the same manner as if the trusts of the marriage settlement had been rewritten word for word, and does not operate to create an accretion to the original settlement funds whereby both funds would be administered as one blended fund. Accordingly, where under the marriage settlement a wife had powers to raise by appointment a sum not exceeding £2,000 for her sole and separate use out of the settlement funds, she had also power to raise a similar sum for a similar purpose out of the will fund; but this sum, when raised, if it exceeded £200, would immediately be caught by the after-acquired property clause in the settlement.—*RE BEAUMONT, Farwell, L.J.*, 283 ; 1913, 1 Ch. 325.

SHIPPING :—

1. *Bill of lading—Fire—Seaworthiness—Exceptions—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 502.*—The parties to a bill of lading excluded the operation of section 502 of the Merchant Shipping Act, 1894, which exempts the shipowners from liability for loss or damage by fire. The ship was, in fact, unseaworthy, and the loss was caused by such unseaworthiness.

Held, that as the bill of lading did not in unambiguous terms exempt the shipowners from the obligation to provide a seaworthy ship, they were consequently liable.—*INGRAM & ROYLE v. SERVICES MARITIMES, &c.*, *K.B.D.*, 375 ; 1913, 1 K. B. 538.

2. *Bill of lading—Strikes—Clause exempting shipowners from liability in certain circumstances.*—A bill of lading provided, *inter alia*, that if the master reasonably anticipated that delivery would be impeded at the port of delivery by strikes, he might at any point of the transit, at the risk and expense of the owners of the goods, tranship or land or otherwise dispose of the cargo, or he might proceed on the voyage with the whole or part of the goods, and discharge the same on the return voyage, or forward them to their destination from another port, and if the discharge of the cargo was or threatened to be impeded by absence from whatever cause of facilities of discharge, he was to have liberty at ship's expense, but shipper's risk, to put the whole of the cargo into hulk, lighter, &c. Transhipment of cargo for ports where the ship did not call, or for shipowners' purposes, was to be at shipowners expense. The bill of lading also provided that goods over-carried should be returned at ship's expense. The plaintiffs' cargo was shipped under the bill of lading for London, but the vessel did not call there in consequence of a strike. She proceeded to Liverpool, where the cargo was transhipped and brought to London. In an action brought to recover the expenses of transhipment and dock dues,

Held, on the true construction of the bill of lading, that the expenses in question were payable by the shipowners.—*WILES & CO. v. OCEAN STEAMSHIP CO.*, *K.B.D.*, 213.

3. *Cargo—Loss by fire—Unseaworthiness of ship—Liability—Fault or privity of owners—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 502.*—A cargo of oil carried on board a ship was destroyed by fire, the cause of the loss being the stranding of the ship occasioned by the unseaworthiness of her boilers.

Held, that the shipowners were not entitled to the protection of section 502 of the Merchant Shipping Act, 1894, as the loss had not happened without their actual fault or privity.—*ASIAIC PETROLEUM CO. v. LENNARD'S CARRYING CO.*, *K.B.D.*, 79, aff. *C.A.* 784.

4. *Charter-party—Construction of—"Improper opening of valves, sluices, and ports"—Damage caused by omission to close valve—Shipowner's liability.*—A clause in a charter-party provided

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that the shipowners were to be exempted from the usual perils, even when occasioned by negligence. It also contained the following clause:—" . . . but unless stranded, sunk or burnt, nothing herein contained shall exempt the shipowner from liability to pay for damage to cargo occasioned by . . . improper opening of valves, sluices, and ports."

Held, that the shipowner was liable to the cargo owner for damage caused by improperly leaving open a valve which had originally been properly opened.—*MENDL v. ROPNER, K.B.D.*, 130 ; 1913, 1 K. B. 27.

5. *Charter-party—Demurrage—Custom of port—Distinction between law and custom.*—When the English courts construe a charter-party as making lay days begin when the ship is ready to load, though not in berth, and foreign courts treat the lay days as beginning when the vessel is in berth, the local law or action based upon it cannot be treated as a custom of the port.—*ANGLO-HELLENIC STEAMSHIP CO. v. DREYFUS, K.B.D.*, 246.

6. *Charter-party—Lump sum freight—Non-arrival of chartered vessel—Delivery of substantial part of cargo—Right to recover freight.*—A charter-party made between the plaintiffs and the defendants provided that a vessel was to proceed to a named port and there load a full cargo of pit props, and should then proceed to Port Talbot and deliver the same on being paid a lump sum of £1,600 "on unloading and right delivery of the cargo." The charter party contained an exception clause, exempting the shipowners, from, *inter alia*, perils of the sea. The ship with her cargo loaded arrived at Port Talbot, but before she was able to get into dock she went ashore, and eventually became a total wreck. The deck cargo was swept off. Some of it was stranded on the beach and some was not recovered. The rest of the cargo was washed out or was got out by holes being made in the ship's side. A considerable part of the cargo was collected and placed on the premises of the dock company, who held it under a lien for the plaintiff's freight and for their own charges. The defendant claimed the cargo free of any charge, and an order was made that it should be delivered up on deposit by the defendants of the sum claimed. In an action brought to recover the amount of the freight,

Held, that the lump sum freight was payable, notwithstanding the non-arrival in dock of the ship, and notwithstanding the fact that the whole of her cargo had not been delivered.

Decision of *Pickford, J.* (56 SOLICITORS' JOURNAL, 798 ; 1912, 3 K. B. 321), affirmed.—*HARROWING STEAMSHIP CO. v. THOMAS & SONS, C.A.*, 426 ; 1913, 2 K. B. 171.

7. *Collision—Tug and tow—Collision between tug and other vessel—"Both to blame" rule.*—A barge, while being towed by a tug which had complete control of the navigation, suffered collision from a third vessel owing to the joint negligence of the tug and the third vessel.

Held, that there was no Admiralty rule in force which entitled the defendants to say that the plaintiffs could only recover a moiety of the damage they suffered by the collision, and that the plaintiffs were entitled to recover the whole of their loss from the defendants.

Decision of Court of Appeal (*Vaughan Williams, L.J.*, dissenting (56 SOLICITORS' JOURNAL 149 ; 1912, P. 21) affirmed.—"THE DEVONSHIRE," *H.L.*, 10 ; 1913, A. C. 634.

8. *Master and seamen—Wages—Termination of services by reason of wreck—Meaning of wreck—Merchant Shipping Act, 1894, ss. 158, 162.*—The plaintiffs signed articles for a voyage on a steamship from Southampton to New York, or, if required, to any port within the North Atlantic and South Atlantic Oceans trading as might be required until the ship returned to a final port of discharge in the United Kingdom. Shortly after leaving

Southampton the steamship collided with another vessel, and was so damaged that she abandoned the voyage, but got back under her own steam to Southampton, where she discharged her cargo and passengers. Her certificate had to be surrendered to the Board of Trade, and was only handed back two months later after she had been in dry dock for repairs.

Held, that the injury sustained by the steamer brought the case within the words of section 158 of the Merchant Shipping Act, 1894, namely, that "by reason of the wreck . . . of the ship" the services of the crew had terminated before the time contemplated in the agreement, and consequently the plaintiffs were entitled to wages up to the date of discharge, but not for any longer time.

Decision of Bargrave Deane, J. (Kennedy, L.J., dissenting) (28 T. L. R. 356), affirmed.—*FRASER v. OCEANIC STEAM NAVIGATION CO., C.A.*, 388.

9. Pilot—Negligence of qualified pilot—Limitation of liability—Claims for more than limited amount—Pilot sued by one claimant—Proportionate amount paid into court—No power in court to apportion—Merchant Shipping Act, 1894 (57 & 58 Vict. c. 60), s. 620.—A qualified pilot, appointed by the Trinity House, having been guilty of negligence on a voyage, five claims were made against him, amounting in all to £330 9s. 7d. One of the claimants issued a plaint for his claim which amounted to £72 15s. 3d. The pilot paid into court the sum of £25, which was rather more than the plaintiff would get if the £100 and the £2 3s. 6d. to which the pilot's liability was limited under section 620 of the Merchant Shipping Act, 1894, was divided rateably between the claimants. It appeared that at the date of the payment into court the pilot had not paid any of the other four claimants. Judgment was given for the full amount claimed, £72 15s. 3d.

Held, that the other claimants, not having been paid their proportions, this decision was right, there being no power at law, in equity or by statute, for the court to apportion the claim.—*DEERING v. TARGETT, K.B.D.*, 113 ; 1913, 1 K. B. 129.

10. Port of London—Registration of craft—Sailing barge—All lighters, barges and other like craft—Port of London Act, 1908 (8 Ed. 7, c. 68), s. 11.—A sailing barge trading regularly between London and a place outside the limits of the Port of London, as described in the Fifth Schedule to the Port of London Act, 1908, is a "barge" within the words "All lighters, barges and other like craft" in section 11 (2) (f) of that Act, and by the Port of London Authority's by-laws must be separately registered as a barge with the Port of London Authority, notwithstanding the fact that it is registered as a ship under the Merchant Shipping Act, 1894.—*SMEED v. PORT OF LONDON, C.A.*, 172 ; 1913, 1 K. B. 226.

11. Affreightment—Bill of lading—Exemption—Condition exempting ship from responsibility for markings on goods—Liability for unmarked goods—Apportionment among consignees of unmarked goods not identifiable as part of any particular consignment.—Bales of jute, consigned to various consignees and specifically marked, were shipped under bills of lading stating that the bales were received "marked and numbered as per margin," but that "freight, measure, quality, contents and value" were unknown, and that the ship was not to be liable for "inaccuracies, obliterations, or absence of marks." On the discharging of the ship, fourteen bales were missing; eleven bales also were found to be, through some unknown cause, without marks, and could not be identified as belonging to any particular consignment. It was not disputed that the eleven bales formed part of the jute shipped at the port of lading, but the consignees—four in number—who did not receive their full consignment refused to accept any of these bales.

Held, in an action by the shipowners (reversing the decision of the Second Division of the Court of Session) that the four consignees were not bound to accept the eleven bales, as these did not fail to be allocated amongst them in proportion to the respective shortages of their consignments, and therefore each of them was entitled to deduct from freight due by him, as claimed by the shippers in the action, the value of his proportion thus ascertained of the fourteen missing bales.—*SANDEMAN v. TYZACK AND BRANFOOT STEAMSHIP CO., H.L.*, 752.

SOLICITOR :-

1. Agent and client—Law agent transacting with client—Transactions between law agent and wife of client—Wife acting without separate advice—No evidence of unfair dealing on part of law agent—Loss of moneys advanced by wife—Claim against law agent for damages.—A law agent acted for a client who was a partner in a firm, and also made the firm advances personally. He was, besides being a solicitor, the agent for the branch bank where the firm'

banking account was kept, and in that capacity made advances to the firm and allowed overdrafts. He also acted as solicitor for his client's wife, who had property of her own. To assist her husband the wife made advances to the firm, and became surety in various transactions, in which money was advanced to her husband either by way of overdraft from the bank or from the law agent personally. During these transactions the wife had no separate advice. The firm became insolvent, and the wife, having lost all her money, brought an action against the law agent, alleging negligence on his part as her solicitor. The Lord Ordinary took the view that the case was the common one of a wife with separate means being induced by her husband to assist him to keep the business afloat. There was no evidence of any unfair dealing on the part of the defendant, and therefore he gave judgment for him. The First Division of the Court of Session (the Lord President, Lord Kinneir, and Lord Mackenzie—Lord Johnston dissenting) affirmed the Lord Ordinary.

The House dismissed the plaintiff's appeal.

Decision of First Division of the Court of Session (1911, S. C. 1248) affirmed.—*LEAROYD v. ALSTON, H.L.*, 684.

2. Bill of costs—Agreement as to amount—Bill of exchange—Payment by—Taxation—Stay of action on bill—Solicitors' Remuneration Act, 1881, s. 8.—Solicitors' Act, 1870, s. 4.—A client agreed his solicitor's costs for work done and accepted a bill of exchange for the amount, in consideration of the solicitor's promise not to enforce payment for two years and to conduct his affairs in the meantime. An action having been brought on the bill after the two years, the client applied by summons for delivery and taxation of a proper bill, and for inquiry into the agreement and for a stay of proceedings in the action.

Held, reversing the decision of Rowlett, J., that the defendant was entitled to have the agreement inquired into, and to delivery of a bill, but the stay of proceedings in the action was refused.—*RAY v. NEWTON, C.A.*, 130 : 1913, 1 K. B. 249.

3. Certificate, Refusal of—Action—Solicitors Act, 1888, s. 16—Solicitors' Act, 1899, s. 2.—In the absence of malice no action lies against the Law Society for the refusal of a solicitor's certificate, although such refusal is founded on an erroneous exercise of discretion.—*NEWSON v. THE LAW SOCIETY, C.A.*, 80.

4. Costs—Taxation of costs—Practice—Review of taxing master's certificate—Ineffectual sale by auction—Scale and item charges—Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 41), s. 2, subsections (a) (c), Schedule 1, Part I, r. 2 ; Schedule 2.—Where there has been an ineffectual attempt to sell land by auction, and the land is not subsequently sold, the solicitor's charges in his bill of costs under the Solicitors' Remuneration Act, 1881 (44 & 45 Vict. c. 41), should be item charges and not scale charges.

The words "where the property is not sold," which occur in the first schedule to the Act, only refer to a preliminary ineffectual auction where the property is subsequently sold.—*RE STEAD, NEWVILLE, J.*, 187 ; 1913, 1 Ch. 240.

5. Costs—Taxation—Witnesses—Conduct money—Charge for preparing brief—Ord. LXV. 27 (29).—Witnesses served with subpoenas to attend the trial of an action are entitled to be paid conduct money unless served prematurely, and it is the practice to allow these payments on taxation.

A charge for instructions for brief is in the discretion of the taxing master, and cannot be reviewed by the court unless the taxing master has proceeded on a wrong principle.—*CARTER v. APFEL, Eve, J.*, 97.

6. Retainer—Authority to issue a writ—Repudiation by client—Subsequent adoption.—A retainer to solicitors "to take such steps as you may be advised against W. T. and his co-trustees, in order to protect the assets of the N.O.A.P. Trust," is a retainer to bring an action that the trust may be dissolved and its affairs wound up by the court.—*RE NATIONAL OLD AGE PENSIONS TRUST, WARRINGTON, J.*, 114.

7. Woman—Right to be admitted to examination—Public office—Common law disqualifications—Solicitors and Attorneys Act, 1843 (6 & 7 Vict. c. 73), ss. 2, 3, 48—Solicitors' Act, 1888 (51 & 52 Vict. c. 65), s. 10.—A woman is not a "person" within the meaning of section 48 of the Solicitors and Attorneys Act, 1843, and is disqualified by reason of her sex from being admitted to the preliminary examination for the purpose of qualifying for admission as a solicitor.—*BEBB v. LAW SOCIETY, Joyce, J.*, 664.

STANNARIES :-

Mining—Partnership of two persons—"Company"—Winding-up jurisdiction—Stannaries Act, 1887 (50 & 51 Vict. c. 43), ss. 2, 28—Stannaries Court (Abolition) Act, 1896 (59 & 60 Vict. c. 45), s. 1—Companies (Consolidation) Act, 1908 (8 Ed. 7, c. 69), s. 131 (5).—A partnership constituted by agreement between two persons for

the purpose of working tin and other mines in the county of Cornwall is a "company" within the meaning of section 2 of the Stannaries Act, 1887, and the county courts of Cornwall, which have succeeded the former stannaries court, have exclusive jurisdiction in proceedings taken for the dissolution of such partnership. An action brought with that object in the High Court was therefore dismissed with costs.—*DUNBAR v. HARVEY, C.A.*, 686.

STOCKBROKER :—

Speculative accounts—Death of client—Realization of shares—Right of broker to take over client's shares at a valuation.—When there is an account open between a stockbroker and his client, it is both the right and the duty of the broker to close the account on the death of the client, and to sell all shares which he has contracted to purchase. Shares that cannot conveniently be sold without unduly depreciating their value, the broker may take over himself at a proper valuation, provided this can be done without prejudice to the client's estate.

Decision of Warrington, J. (*ante*, p. 213), affirmed.—*RE FINLAY, C.A.*, 444; 1913, 1 Ch. 565.

TITHE RENT-CHARGE :—

Agreement by tenant to pay tithe rent-charge—Validity—Tithe Act, 1904, s. 1 (1), (2).—By an agreement of tenancy a farm was let to a tenant at a yearly rent, and the lessee covenanted to pay the said rent on the quarter days as it became due, and also, by way of further rent, "such further and other sums of money as they (the landlords) shall from time to time expend for, *inter alia*, all tithe or tithe rent-charge or modus or other payment in lieu of tithe without any deduction whatsoever."

Held, that the agreement to pay further rent was void by virtue of section 1 of the Tithe Act, 1891.

Decision of Channell, J., in *Ludlow (Baron) v. Pike* (1904, 1 K. B. 531) approved and followed by Vaughan Williams and Kennedy, L.J.J., and dissented from by Buckley, L.J.—*TUFF v. DRAPERS Co., C.A.*, 43; 1913, 1 K. B. 40.

TRADE MARK :—

1. *Initials—Distinctiveness—Discretion of registrar.*—Application was made to the Registrar of Trade Marks to allow the present appellants, W. & G. Du Cros (Limited), to register two trade-marks for motor vehicles, the first mark consisting of the letters "W. & G." written in a running hand at an angle from the horizontal, with a considerable and peculiar flourish, the second consisting of the letters "W. & G." in ordinary block type. The Registrar refused both applications, and Eve, J., upheld his decision. The Court of Appeal held that the application should be allowed to proceed in respect of the script letters but (Moulton, L.J., dissenting) not in respect of the letters in ordinary block type.

Held, allowing the appeal by the Registrar of Trade-Marks, that his decision was right, as the registration of two letters, which were the initial letters of hundreds of other firms, might interfere with the honest use by those firms of their own initials on their own goods.

Per Lord Shaw: The functions of the registrar are *quasi-judicial*, and *semble* his decision when properly exercised is final.

Decision of Court of Appeal (1912, 1 Ch. 644, 81 L. J. Ch. 201) reversed.—*RE DU CROS APPLICATION, H.L.*, 728.

2. *Refusal of application to register—Appeal—Mark calculated to deceive—Trade-Marks Act, 1905 (5 Ed. 7, c. 15), s. 12 (3)—Necessity for use of trade-mark too remote.*—Where it was proved that the applicants for registration of a trade-mark never had any trade or business in this country in the goods for which the trade-mark was sought to be registered, and by their agreements could not have any such trade or business for twelve more years, the court held that the application to register must be refused, as the time when such trade-mark would be required was too remote.—*RE NEUCHATEL ASPHALTE Co., Sargent, J.*, 611; 1913, 2 Ch. 291.

3. *Registration—Special application—Jurisdiction of court to remove trade-mark on the register—Registration of surname as a distinctive mark—Trade Marks Act, 1905 (5 Ed. 7, c. 15), ss. 9 (5), 35, 41, 44.*—Within the period of seven years limited by section 35 of the Act from the date of the original registration of a trade-mark, it is open to any aggrieved person to apply to rectify the register by the removal of a mark complained of, and the court has jurisdiction to hear the application, and reverse any order for registration made by the Board of Trade.

A surname is not incapable of registration as a trade-mark under section 9 (5), but it should only be registered under exceptional circumstances, i.e., where the surname is very uncommon, and has,

in fact, by long use, become distinctive of the goods for which it is sought to be registered.—*RE TEOFANI'S TRADE MARK, C.A.*, 686.

4. *Registration—Special application—Surname—Adapted to distinguish—Trade-Marks Act, 1905, s. 9, sub-section 5.*—An application to register the surname of an individual in the possessive, as a trade-mark for a particular brand of tobacco, refused, on the ground that it was not in fact adapted to distinguish the goods sold by the applicants, the evidence that the word had become distinctive by user being insufficient, and confined to a limited area of the whole kingdom.—*RE LEA'S TRADE MARK, C.A.*, 373; 1913, 1 Ch. 446.

5. *Special application—Surname represented in particular manner—Distinctive device—Trade-Marks Act, 1905, s. 9, sub-sections 1 and 5.*—An application to register a surname: the letters of which were so shaped as to fit within a circle, together with a wreath within a concentric circle outside the name, refused on the ground that it was not registrable as the name of a company, individual, or firm under section 9 (1), nor was it a distinctive mark registrable without an order of the Board of Trade or the court under section 9 (5). The court declined to interfere with the registrar's decision.—*RE BENZ & CIE, C.A.*, 301.

TRADE NAME :—

Passing off action—Brinsmead pianos—Right to use own name in absence of any evidence of dishonesty.—The defendant, E. G. Stanley Brinsmead, was a cousin of the founder of the well-known firm of piano manufacturers, John Brinsmead & Son (Limited). He put his name on certain pianos made by himself. In a few cases his name on the pianos was made use of by dealers to pass off his pianos as pianos made by John Brinsmead & Sons (Limited). There was no evidence that the defendant had acted dishonestly.

Held, that the defendant could not be restrained at the instance of John Brinsmead & Sons from putting his own name on the pianos made by himself, although the fact of his doing so might bring him some advantage in connection with the sale of pianos made by him, in consequence of his surname being the same as that of the plaintiff firm.

Decision of Warrington, J. (57 SOLICITORS' JOURNAL, 322) affirmed.—*BRINSMEAD v. BRINSMEAD, C.A.*, 716.

TRADE SECRETS :—

Right of employee to use in subsequent employment—Master and servant—Confidential employment—Implied obligation of servant—Improper use of information acquired during employment.—Where neither the court nor the defendant knew the exact details of a secret process, but the defendant, knowing the materials of the plaintiffs' mixture, and that it was a strong solution, left the employment of the plaintiffs and entered the employment of a rival firm with a view to making a commodity of the same quality as the plaintiffs' commodity, the court granted an injunction to restrain the defendant from using the whole or any material part of their secret process, the knowledge of which was acquired by him during his employment with the plaintiffs, and from disclosing any knowledge or information so acquired with reference to that process, it having been proved (1) that the plaintiffs did possess and exercise a secret process; (2) that the defendant did during the course of his employment know that the process was secret; (3) that the defendant did during the course of his employment acquire knowledge of the secret or of a material part thereof; (4) that the defendant had, since leaving the plaintiff's employment, made an improper use of the knowledge so acquired.

The rule in *Newbery v. James* (2 Mer. 446) does not apply to a case of this kind, where, in the event of an alleged breach of the injunction, the plaintiffs could supply the full details of their process to the court.—*AMBER SIZE AND CHEMICAL CO. v. MENZEL, Astbury, J.*, 627; 1913, 2 Ch. 239.

TRADE UNION :—

1. *Application of funds otherwise than according to the rules—Maintenance of suit—Common interest—Slanders on officers as such—Actions by the officers—Indemnity by union against costs—Ultra vires.*—It is *ultra vires* for a registered trade union, where there is no provision in its rules for such payment, to resolve to pay and subsequently to, in fact, pay the costs of an action for damages for slander brought by one of its officers, merely on the ground that such an action, by stopping the slanders, will indirectly benefit the association.—*ORAM v. HUTT, Swinfen Eady, J.*, 159; 1913, 1 Ch. 259.

2. *Libel—Conspiracy to libel—Act not in contemplation or in furtherance of trade dispute—Action against trade union as such—Trade Union Disputes Act, 1906 (6 Ed. 7, c. 47), s. 4.*—Section 4

(1) of the Trades Disputes Act, 1906, which provides that an action against a trade union in respect of any tortious act alleged to have been committed by the trade union shall not be entertained by any court, is of general application, protecting a trade union against an action in respect of any tortious act committed by it as such, and is not limited like sub section (2) to tortious acts committed in contemplation or furtherance of a trade dispute.

The plaintiffs sued the defendant trade union and two of its officials for libel and for conspiracy to publish libels of and concerning the plaintiffs and to induce persons not to deal with them. The defendants took out a summons for an order that the statement of claim should be struck out on the ground that by reason of section 4 of the Act of 1906 such an action was not maintainable.

Held, dismissing the appeal and affirming the decision of the Court of Appeal (*Farwell, L.J., dissentiente*) (reported 56 SOLICITORS' JOURNAL, 442; 81 L.J., K. B. 1014) that the statement of claim, so far as it sought to make the union in its registered name liable, must be struck out.—*VACHER & SONS v. LONDON SOCIETY OF COMPOSITORS*, H. L., 75; 1913, A. C. 107.

3. Plaintiff and defendant members of different trade unions—Statement by defendant to employer—Threat or warning—Employer ceases to employ plaintiff—Whether action was maintainable at common law.—The plaintiff and the defendant were employed by the same firm, and were members of different trade unions. The defendant told the plaintiff, when she came to work for the firm, that she must join her union, and as the plaintiff did not do so, the defendant and other workers went to the employer and made a statement to him. The employer told the plaintiff that his workpeople refused to work with her, and would go on strike if she did not join their union; that if she did not join she would have to go.

Held, that there being no evidence that the defendant had induced the employer to do an act which was unlawful, and the words used amounting only to a warning to the employer and not a threat, the case fell within the decision of the majority of the House of Lords in *Allen v. Flood* (1891, A. C. 1), and the county court judge was right in non-suiting the plaintiff.

Decision of Divisional Court (28 T. L. R. 515) reversed.—*SANTEN v. BUSNACH*, C.A., 226.

TRADES DISPUTES :—

Meaning of "Trade Dispute"—Malice—Trades Disputes Act 1906, s. 5 (3).—Employees who were on good terms with their employer, and had contracted to serve him at a fixed wage, were ordered by officials of their union to strike for higher wages. The officials were actuated by spite, as the jury found. In an action for inducing the employees to break their contracts, the judge directed the jury that there was not a trade dispute within the meaning of the Act unless the particular employer was at variance with his own workmen, and the jury found for the employer.

Held, that this was a misdirection, and that there must be a new trial.

Held, also, that if a defendant is entitled to the protection of the Act, it makes no difference if he is shewn to have been actuated by motives of personal spite.—*DALLIMORE v. WILLIAMS*, C.A., 77.

TRAMWAY :—

Tramway company—Widening of road—Abandonment of undertaking—Compensation for property rendered less valuable by abandonment.—Promoters of a tramway, in exercise of their powers, purchased from the owner of land at the corner of two roads a triangular piece for the purpose of widening the roadway. The tramway could not, under the Act, be opened until the road had been widened. The undertaking was abandoned, and the owner of the land cut off from the frontage to the road which the widening would have given him.

Held (reversing Warrington, J., *ante*, p. 78) that the owner was a person who was entitled to come in and prove his claim that the property had been rendered less valuable by the abandonment of the undertaking.—*RE WEST YORKSHIRE TRAMWAY BILL*, 1906, C.A., 111; 1913, 1 Ch. 170.

TRUST :—

Declaration of trust—Irrevocable declaration—Trustee and cestui-que-trust—Writing signed by the party to declare the trust—Equitable charge—Non-communication to the cestui-que-trust—Breach of trust—Appropriation of securities by defaulting trustee to make good the breach—Statute of frauds (29 Car. 2, c. 3), s. 7.—Where a declaration of trust is relied upon, the court must be satisfied that a present irrevocable declaration of trust has been made. Where entries in pencil had been made in accounts kept by A, who appropriated certain moneys of B, which pointed to the intention of A to charge a certain house with the moneys so appro-

priated, but which entries were not communicated to B and appeared to have been altered from time to time,

Held, that such entries did not satisfy section 7 of the Statute of Frauds, and accordingly that no charge on the house had been created.—*RE COZENS, Neville, J.*, 687.

TRUSTEES :—

Mining lease—Unopened mine—Power of trustees to grant leases.—A testator gave power to the trustees of his will to let from year to year, or for a term of years, his real or leasehold property at such rent and subject to such conditions as they should think fit, and to accept the surrender of leases and tenancies, to expend money on improvements, and generally to manage the property according to their absolute discretion. There were opened and unopened mines on the estate.

Held that the trustees had no power to grant leases of unopened mines.—*RE HARTER, Warrington, J.*, 444.

See also Limitations, Statute of, Settled Land, Settlement Vendor and Purchaser.

VENDOR AND PURCHASER :—

1. Conveyance—Condition negativing compensation—Parcels—Implied covenants for title—Stranger not prevented by vendor from acquiring a title under the statute of limitations—Liability of vendor—Measure of damages—Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41), s. 7 (1) A.—A strip of land which was held to be included in parcels purported to be conveyed by a vendor as beneficial owner was discovered afterwards to have been acquired by adverse possession by adjoining owners under the Statute of Limitations. There was a condition in the contract that any incorrect statement, error or omission in the description of the lots was not to annul the sale, nor was compensation to be claimed in respect thereof.

Held (1) that the purchaser could recover damages against the vendor under his implied covenant for title; (2) that the omission to prevent an adjoining owner from acquiring an adverse title under the Statute of Limitations constituted a thing "omitted or knowingly suffered" on the part of the vendor within the meaning of section 7 (1) A of the Conveyancing and Law of Property Act, 1881 (44 & 45 Vict. c. 41); (3) that the measure of damages was not the difference in price which would have been obtained at the sale if the disputed strip had not been included in lot 4, but the difference in value of the land as purporting to be conveyed and the land as it actually passed to the purchaser.

Bos v. Helsham (L. R. 2 Ex. 72) distinguished.—*EASTWOOD v. ASHTON, Sargent, J.*, 533; 1913, 2 Ch. 39.

2. Copyholds—Trustees selling under their power of sale—Right to have purchaser admitted.—A testator who died in 1883 by his will declared limitations of his freehold and copyhold estates, and gave an over-riding power of sale to his trustees. The will vested a term of 1,000 years in the trustees, but contained no express power to revoke uses. The trustees were now selling under their power of sale, and proposed to nominate the purchaser for admittance. The lord claimed that the trustees must be admitted.

Held, that the lord was bound to admit the purchaser on payment of a single fine.

Beal v. Sheppard (1607, Cro. Jac., 109) followed.

Quare, whether the lord and steward of the manor could properly appear and be heard on a vendor and purchaser summons.—*RE HEATHCOTE AND RAWSON'S CONTRACT*, *Farwell, L.J.*, 374.

3. Notice to complete after expiry of two previous notices—Vendor's delay—Rescission—Reasonable time for completion.—A contract was entered into for the sale of a large estate to the defendants, and completion was fixed for October, 1911, six months ahead, the intention of the purchasers being to resell the property in lots in the meantime. In June the defendants contracted to sell two farms, part of the estate, to the plaintiff, a farmer, who required them for occupation, and completion was fixed for the same date as their own contract. Part of the estate was subject to a mortgage, and it was arranged, to the knowledge of all parties, that such part should, as far as possible, be sold, and the mortgage shifted to the property purchased by the plaintiff. Delay having occurred in the completion of the original contract and the dealings with the mortgage, the plaintiff gave two successive notices requiring the defendants to complete his purchase, and finally, on the 30th of January, 1912, gave notice insisting on completion within a period of fourteen days, failing compliance with which he repudiated the contract, and demanded a return of his deposit.

Held, reversing Joyce, J. (*ante*, p. 212), that in the circumstances, assuming the plaintiff to be entitled to insist on a speedy completion, the notice actually given was unreasonable, and that the

defendants were entitled to judgment.—*STICKNEY v. KEEBLE, C.A.*, 389.

4. Penalty—Recovery of possession of land—Claim for specific performance.—The plaintiffs on the 14th of December, 1900, entered into an agreement to sell to the defendant certain lands for the sum of \$75,000, payable by certain instalments on fixed dates, and the balance \$3,000 on or before the 14th of June, 1914, with interest at the rate of 7 per cent. per annum on so much of the said purchase money as from time to time remained unpaid. There was a clause that if the payments were not punctually made the company should be at liberty to resell the land, and all payments made became forfeited to them. The first instalment of \$2,000 was duly paid on the execution of the agreement, the second instalment of \$5,000, with interest, was not paid; there was correspondence asking for time, and subsequently, on the 9th of July, 1910, the secretary of the company sent a telegram saying the deal was off, and on the 1st of August an action was brought to enforce the forfeiture. This was met by a counter-claim asking for specific performance. The defendant paid the money due in court, and it remained in court to the credit of the action.

Held, allowing the defendant's appeal, that the circumstances fell within the rule laid down in *Re Dagenham (Thames) Dock Co., Ex parte Hulse* (21 W. R. 898; L. R. 8 Ch. 1022; 43 L. J. Ch. 261), that the clause as to payment of the balance was merely in the nature of a penalty, and that the vendors had no right to recover possession of the land if the balance of the purchase money was paid.—*KILMER v. BRITISH COLUMBIA ORCHARD LANDS (LIMITED)*, P.C., 338; 1913, A. C. 319.

WASTE:—

Damages for, not assignable.—A lease of a factory for a long term of years contained a covenant for the repair of buildings. The lessee agreed with the defendant for the sale to him of the tenant's fixtures and fittings in the factory, and to give him the use and occupation of the premises for some months, he covenanting not to commit any act which if done by the lessee would be a breach of the covenants in the lease, and to make good to the satisfaction of the lessor all damage done in the removal of the fixtures sold. The defendant having damaged the soil and roadway by taking up furnaces and granite and steel pavement without restoring the surface, the plaintiff purchased from the lessee his interest in the lease and the benefit of the above covenants. In an action claiming damages,

Held, that the acts complained of amounted to waste, and that the right of action in respect of them was not assignable, and that the plaintiff as assignee of the lease was only liable in nominal damages to the lessor for the injury to the reversion by the state of the premises, and could not recover from the defendant.—*DEFRIES v. MILNE*, C.A., 27; 1913, 1 Ch. 98.

WATERCOURSE:—

Discharge of sewage effluent—Natural stream or watercourse—Sewer—Public Health Act, 1875 (38 & 39 Vict. c. 55), ss. 16, 17.—An agricultural ditch or channel constructed by a landowner on his land for the purpose of carrying off surface water, but in which there is no constant flow of water, is not a natural stream or watercourse within the meaning of section 17 of the Public Health Act, 1875. Such a channel is a sewer within section 4, but it falls within the first of the three classes of excepted sewers enumerated in section 13, and is not therefore vested in the local authority.

Sykes v. Sowerby Urban District Council (1900, 1 Q. B. 584) applied.—*PHILLIMORE v. WATFORD RURAL DISTRICT COUNCIL*, Ee., J., 741.

See also Corporation.

WATERWORKS:—

1. Metropolis—Recovery of water rates in arrear—Action in county court—Limitation of time.—The limitation of six months imposed by section 11 of the Summary Jurisdiction Act, 1848, in respect of the recovery of arrears of water rate up to £20 summarily before justices, does not apply to proceedings to recover such rates in the county court.

Decision of Divisional Court (1913, 1 K. B. 134; 11 L. G. R. 56) affirmed.—*METROPOLITAN WATER BOARD v. BUNN*, C.A., 625; 1913, 1 K. B. 134.

2. Supply by contract—Money paid under bona fide mistake—Claim to recover money overpaid—“Ignorantia Legis.”—In 1900 a company entered into an agreement with the borough corporation as the water authority, that in the event of their being unable to obtain sufficient water for the purposes of their brick and tile

works from their own sources of supply the corporation would supply them with water at a cost price not exceeding 2d. per 1,000 gallons. Previous to this agreement they had taken water from the corporation, and had paid the ordinary rate charged to customers of 8d. per 1,000 gallons, and they continued to do so down to 1910. They then claimed that they were entitled to have had the water supplied to them at 2d. per 1,000 gallons, and demanded a return of 6d. per 1,000 gallons overpaid during the preceding ten years, as money paid under a mistake of fact. The arbitrator found, as a fact, that if the claimants were so entitled to be supplied with water under the covenant they were, during the whole of the ten years in question, bona fide ignorant of their legal rights in this respect, and one of the questions stated by him for the opinion of the court was whether, in the circumstances, the claimant had paid the money they sought to recover under a mistake of law or under a mistake of fact.

Held, reversing the decision of Bailhache, J., that the money had been paid under a mistake of law, but whether it was paid under a mistake of law or fact it could not be recovered, as, in the opinion of the court, the condition precedent to the right to demand a supply at the lower rate, namely, a notice that their own supplies had become exhausted, had not been complied with.—*STANLEY BROS. v. NUNEATON CORPORATION*, C.A., 592.

3. Metropolis—Supply of water—Assessment—Rateable value—Provisional valuation list—“Valuation list in force”—Metropolitan Water Board (Charges) Act, 1907 (7 Ed. 7, c. clxxi.), s. 13.—The valuation list referred to in section 13 (1) of the Metropolitan Water Board (Charges) Act, 1907, is the original list in existence on the first day of the quarter in which the water rate accrues, unaltered by any provisional list, unless such provisional list has been completed after an objection has been taken before and determined on by the assessment committee before the commencement of the current quarter, when the alteration in the provisional list is the valuation of the premises on which the rate for that quarter is payable.

Held, reversing decision of Court of Appeal (Farwell and Kennedy, L.J.J., and Cozens-Hardy, M.R., dissentiente) (28 T. L. R. 533; 17 L. G. R. 891), and restoring judgment of Parker, J. (28 T. L. R. 172).—*METROPOLITAN WATER BOARD v. PHILLIPS*, H.L., 95; 1913, A. C. 86.

4. Supply to builders—Special rate of charge claimed—Metropolitan Water Board (Charges Act, 1907 (7 Ed. 7, c. clxxi.), ss. 16, 17).—Under an agreement extending over a period of three years, a firm of builders undertook to execute certain building works at Hounslow Barracks. The Metropolitan Water Board supplied water by measure to the barracks under an agreement with the War Office for “domestic and non-domestic purposes.” Such water as was required by the builders for the building operations the War Office allowed the builders to take free of charge, and such water as they used would in the ordinary course be paid for by the War Office. No request at any time was made by the builders to the Water Board for a supply of water. The Water Board claimed to recover from the builders, under section 17 of the Metropolitan Water Board (Charges) Act, 1907, a sum for water supplied, calculated on the probable cost of the building being erected by them, and the county court judge gave them judgment for the amount so claimed. The Divisional Court (Channell and Avory, JJ.) differed, and the judgment of the county court judge was accordingly affirmed. On appeal by the builders to the Court of Appeal,

Held, that the Water Board could not maintain their action or recover, because the builders were not persons who had “requested” a supply of water within section 17, and therefore the county court judge ought to have entered judgment for the defendants.—*METROPOLITAN WATER BOARD v. JOHNSON & CO.*, C.A., 625.

5. Metropolis—Supply to public-house for lunch catering business—Supply for domestic purposes—Metropolitan Water Board (Charges) Act, 1907 (7 Ed. 7, c. clxxi.), s. 25.—The defendant was the occupier and licensee of a public-house, which was supplied with water in the ordinary way by supply pipes from the mains of the Metropolitan Water Board. The water was charged for under section 8 of the Metropolitan Water Board (Charges) Act, 1907, as supply for domestic purposes by a rate of 5 per cent. on the rateable value of the whole of the premises. The defendant carried on, in addition to the ordinary business of a public-house, a catering business. Tables were provided for people to come there to lunch, and some twenty to thirty lunches were served there every day, which involved an increased use of water beyond what would be used in an ordinary public-house in cooking, washing plates, &c., and in scrubbing floors.

Held, that the water used in the catering business was water supplied for “domestic purposes” within the meaning of those

words in the Metropolitan Water Board (Charges) Act, 1907.—*METROPOLITAN WATER BOARD v. AVERY, K.B.D.*, 406 ; 1913, 2 K. B. 257.

6. *London—Domestic purposes—Business purposes—Public house—Catering business—Metropolitan Water Board (Charges) Act, 1907 (7 Ed. 7, c. clxxi.), ss. 8, 25.*—Where the occupier of a house, rated in the usual way in respect of water supplied for domestic purposes, uses that water for domestic purposes only, the fact that more than the ordinary amount of water is used by the occupier, because of business done with customers, does not entitle the Metropolitan Water Board to make an additional charge on him for the water used in his business.

So held, affirming the decision of Divisional Court (57 SOLICITORS' JOURNAL, 406 ; 1913, 2 K. B. 257).—*METROPOLITAN WATER BOARD v. AVERY, C.A.*, 753.

See also Rating.

WAY, RIGHT OF.—See Easement, Road.

WILL:

1. *Administration—Legacies—General and particular—Insufficiency of assets—Legacy on release of an annuity under a settlement—Abatement—Stranger entitled to ultimate remainder under the settlement.*—A testator during his life settled £1,000 upon the trustees of the Primitive Methodist Orphan Home to be held by them on trust to pay 5 per cent. thereon to himself for his life, and after his death to pay 5 per cent. to his housekeeper, A, for her life, and after the death of A the money was to be applied for the benefit of the said Orphan Home. By his will the testator bequeathed to A the sum of £1,000, "on condition that she releases the trustees of the fund which I have invested for the ultimate benefit of the Primitive Methodist Homes from all claims by her to income from such fund, and accepts this legacy in place thereof." The testator's estate was insufficient to pay all his legacies in full.

Held, that A would not be entitled to priority over the general legatees if she elected to take this legacy instead of her life interest under the settlement.—*Re WHITEHEAD, Farwell, L.J.*, 323.

2. *Condition—Forfeiture—Life interest—Liquidation by arrangement or composition—Become payable to some other person—Receiving order—Scheme of arrangement—Discharge of receiving order.*—A testator bequeathed the income of a fund upon trust for his son for life, or until he should become bankrupt or have his affairs liquidated by arrangement or composition, or should do anything whereby the income should, if absolutely belonging to him, become payable to some other person, with a gift-over in that event. The son committed an act of bankruptcy, upon which a receiving order was made. Subsequently a scheme of arrangement was accepted by the creditors, and the receiving order discharged.

Held, that there was a forfeiture, and that the gift-over took effect.

Re Sartoris (1892, 1 Ch. 11) applied.—*Re LAYE, Eve, J.*, 284 ; 1913, 1 Ch. 298.

3. *Construction—Absolute gifts of freeholds—Gift of income of same freeholds for maintenance—Period when vesting is to take place—Supplying words—Implication to be drawn from previous gifts—Ultimate gift inoperative.*—Where by his will a testator bequeaths his freeholds to his sons, and subsequently gives all the income of the same freeholds to his wife for the maintenance of his children, and declares that if his wife should die before his youngest child shall have attained twenty-one, the property is not to be divided until such youngest child has attained twenty-one, and then proceeds as follows : " And in case that my children should all die and leaving no issue, I give the property share and share alike to my nephews and nieces then surviving."

Held, that on the death of the wife, leaving two unmarried children her surviving, such two children took their respective shares of the testator's freeholds absolutely, since on the construction of the whole will, the gift-over was not intended to take effect unless all the children died in the lifetime of their mother.—*Re MITCHELL, Farwell, J.*, 339.

4. *Construction—Accumulations—Direction to accumulate income—Accumulations for payment of debts—Recouping capital—Thellusson Act (39 & 40 Geo. 3, c. 29), s. 2.*—By his will a testator directed his trustees to pay certain annuitants out of the income of his real and personal estate, and during the lives of the annuitants to accumulate the residue of such income, and empowered his trustees to apply such accumulations in payment of mortgage debts. The testator died in 1868, and the last of the annuitants in 1911.

Held, that the power to apply accumulations in the payment of debts was not a provision for payment of debts within section 2 of

the Thellusson Act, and that it ceased to operate after the expiry of twenty-one years from the testator's death.—*Re CRESSWELL, Eve, J.*, 578.

5. *Construction—Gift conditional on legatee being a widow at the death of testator's wife—Death of legatee, a widow, leaving two children, before the death of the testator's wife.*—A gift to "my sister (provided she shall be a widow at the time of the death of my said wife) of a sum of £1,000, but in the event of her being a wife at that time, then upon trust for her children or child if more than one in equal shares as tenants in common" was held to lapse by reason of the death of the sister before the testator's wife, and accordingly the sister's two children were held to take nothing under such a gift.—*Re LAING, Parker, J.*, 80 ; 1913, 2 Ch. 386.

6. *Construction—Gift of all debts owed by beneficiary to testator at his death—Testator guaranteed overdraft at bank of beneficiary—Such guarantee not a debt.*—A testator gave to his nephew "all debts owing to me from him up to the time of my decease." The testator, at his death, had deposited securities, and had given a guarantee to his nephew's bankers to secure his nephew's borrowings from the bankers up to £4,000.

Held, that the words "all debts" did not include the equitable right which the surety may have had at the death to be indemnified, and accordingly that the clause in the will did not extend to any moneys which the testator's estate might be called upon to pay to the bank under the guarantee.—*Re MITCHELL, Parker, J.*, 213 ; 1913, 1 Ch. 201.

7. *Construction—Gift of "all my furniture and household effects at present at Aubrey Lodge"—Will speaking from the death—Motor-car in outbuilding—Wills Act, 1837 (1 Vict. c. 26), s. 24—Contrary intention—Motor-car included in gift.*—Where a testator by his will gave all his furniture and household effects "at present at Aubrey Lodge" to A, and gave his books, family letters and relics "at present at Aubrey Lodge" to B, and there was a motor-car in an outbuilding at Aubrey Lodge, which, it was stated, had been purchased subsequently to the date of the will,

It was held that the motor-car passed under the gift to A.

Re Howe, Ferniehough v. Wilkinson (1908, W. N. 223), followed.

Re Hall, deceased, Watson v. Hall (56 SOLICITORS' JOURNAL, 615), distinguished.—*Re ASHBURNHAM, Swinfen Eady, J.*, 28.

8. *Construction—Legal devise—Technical words used—To A and his "issue male in succession"—Words of explanation in the will—Devolution how intended—Technical words unexplained—Rules of construction.*—Where there is a gift to A "and his issue male in succession" so that every elder son and his issue male may be preferred to every younger son and his issue male, and so that every such son may take an estate for his life with remainder to his first and every subsequent son successively according to seniority in tail male," the latter words do not form an independent clause, but are merely explanatory of the ordinary course of devolution of an estate in tail male, and accordingly the rule in *Van Grutten v. Forwell* (1897, A. C. 658) applies, and A takes an estate in tail male in possession.—*Re SIMCOE, Swinfen Eady, J.*, 533 ; 1913, 1 Ch. 552.

9. *Construction—Married woman—Gift of annuity without power of anticipation—Forfeiture of annuity upon assignment—Attempt to assign.*—Where a married woman was entitled under a will to an annuity which she was restrained, whilst under coverture, from anticipating, and which was subject also to forfeiture, if she should "assign, dispose of, or charge" the same, whether under disability or not, and she attempted to create a forfeiture by assigning the annuity by way of mortgage, so as to accelerate the vesting in possession of her children's reversionary interests in the testator's residue,

Held (Kennedy, L.J., dissentiente), that "assign" could not be read as including an attempt to assign, that such attempt was ineffectual, and the annuity was not forfeited.

Re Wormald, Frank v. Muzeen (43 Ch. D. 630) applied.—*Re ADAMSON, C.A.*, 610.

10. *Construction—"Ready money"—Money on deposit—Course of business.*—Where the evidence shews that, by the course of business between the testator and his banker, money on deposit at seven days' notice was frequently drawn upon by the testator and such drawings were always met in precisely the same manner as drawings upon his current account,

Held, that the gift of "ready money" in his will passed such moneys on deposit account.—*Re RODWELL, Farwell, L.J.*, 284.

11. *Construction—Specific gift of foreign property—Costs of realization—French succession duty—Trust containing two powers—Divisibility—One power valid—One void for remoteness—Trust valid.*—French death duties were paid by English executors on

French shares specifically bequeathed by a testator domiciled in England, and costs were incurred in paying such duties. The shares being foreign did not vest in the executors, as such, and according to French law an executor had no right to possession of specific legacies.

Held, that the duties and costs were payable out of the specific bequests and not out of residue.

Perry v. Meddowcroft (1841, 4 Beav. 197) dissented from.

Two-thirteenths of the testator's residue was to be held "Upon trust to pay the capital or income thereof, or neither, to my nephew, the said Eugene de Sommery, or to apply the capital or income thereof, or any part of either, for his benefit, or for the benefit of his wife or any child or children of his, as my trustees may, in their absolute and uncontrolled discretion, consider desirable."

Held, (1) The power or powers created in favour of Eugene de Sommery, his wife and children, are conferred on the trustees of the will for the time being, and not on the original trustees only; (2) There are, in fact, two powers vested in the trustees for the time being of the will; first, a power of paying either capital or income to Eugene de Sommery, which is only capable of being exercised during his life; and secondly, a power of applying either capital or income for the benefit of Eugene de Sommery, his wife or children, which is capable of being exercised beyond the period allowed by law; (3) That as the settlor has used language from which the court may fairly infer that he contemplated the creation, not of a single power, but of two distinct powers, one of which, only is open to objection because of the rule against perpetuities, the first power is accordingly valid, and the second power is void.—RE DE SOMMERY, *Parker, J.*, 78; 1913, 2 Ch. 622.

12. *Construction—Trusts by reference—Settlement by will—Several settled funds—Hotchpot cause—Combined or separate.*—Where trusts are declared by reference, the same principles apply to a will which apply to a settlement when it is a question of determining the effect of such a reference to a trust containing a hotchpot clause—namely, you do not amalgamate the two hotchpot clauses unless there is a clear indication of the testator's intention that this is to be the construction if by such amalgamation you alter the trusts of the first fund.

Re Marquis of Bristol, Earl Grey v. Grey (1897, 1 Ch. 946) and *Re Cavendish, Grosvenor v. Butler* (1912, 56 SOLICITORS JOURNAL 39; 1912, 1 Ch. 794) applied.—RE MARKE WOOD, *Neville, J.*, 265; 1913, 1 Ch. 303; affirmed, C.A. 835.

13. *Contingent legacy—Maintenance of infant before vesting—Legacy on attaining twenty-one—Right to interest during minority—Other funds.*—A testator left specific legacies to his children on attaining twenty-one. He also left certain funds to trustees to be applied for their benefit. In a certain contingency which had not happened this trust would determine.

Held, that so long as the trust was in operation there was in existence a fund other than the contingent legacy which precluded the infant from being entitled to the interest on the legacy as maintenance.—RE STEWART, *Warrington, J.*, 646.

14. *Devise of freeholds and leaseholds—Disclaimer of the leaseholds—Disclaimer of freeholds also—Pecuniary legacies—Intestacy—Residuary personal estate not sufficient for payment of debts, funeral and testamentary expenses—Marshalling of assets.*—Where it had been held that, leaseholds having been disclaimed, the specifically devised and residuary freeholds must also be disclaimed, and where there was an insufficiency of assets.

Held, that the rules of marshalling applied in the same way as if there had been an intestacy as to the leaseholds and freeholds disclaimed, and that accordingly, in paying the testatrix's debts and funeral and testamentary expenses, after exhausting her residuary personal estate, except a fund consisting of so much thereof as would satisfy the pecuniary legacies which had been set aside, resort must be had to the disclaimed freeholds before resorting to the said fund so set aside.—RE SITWELL, *Neville, J.*, 730.

15. *Legacy—Disclaimer of trust legacy—Successive life interests—Refusal of the first life tenant to accept income—Payment to the second life tenant—Death of the second life tenant—Right of first life tenant to retract refusal quoad future income.*—A trust legacy was to be invested and the income paid to A for life, and afterwards to B for life; the corpus was then to be applied as residue of the testator's estate. A declined to receive the income, and, with her consent, it was paid to B for his life. On B's death A claimed the income for the rest of her life.

Held, that A's refusal to receive the income in the first instance merely amounted to a voluntary relinquishment of the income for the time being, and not to a relinquishment of her life interest, and that accordingly she was now entitled to receive the income as from her son's death.—RE YOUNG, *FRASER v. YOUNG, Swinfen Eady, J.*, 265; 1913, 1 Ch. 272.

16. *Residuary gift to named persons—Codicil—Revocation of gift of certain shares in residue—Will confirmed in all other respects—No intestacy as to revoked shares—Residue divisible amongst other persons named.*—A testator by his will gave and devised the residue of his real and personal estate to his trustees upon trust for sale, the proceeds thereof to be divided equally between forty-six persons named. By a codicil the testator, after reciting that by his will he had bequeathed to T. W. and F. W. each a share in his residuary estate, declared that he revoked the bequests of the shares to T. W. and F. W., and in all other respects confirmed his will.

Held, that there was no intestacy as to the shares bequeathed to T. W. and F. W., and that the testator's residuary estate was divisible amongst the remaining forty-four persons named in the will.

Cresswell v. Cheslyn (3 Bro. P. C. 246), distinguished.—RE WHITING, *Joyce, J.*, 461; 1913, 2 Ch. 1.

17. *Specific legacies—“Cash in house”—Money orders—“Consols”—Annuits—Deposits—Stock in savings bank—Intention of testator—Evidence.*—A testator by his will left “cash in house,” “Consols” and “savings bank deposits” as specific legacies.

Held, that post office money orders in his house were “cash in house.” Held, that testator having no Consols in the technical sense, and being in the habit of describing Government stock as “Consols,” 2½ per cent. Annuities passed under that term. Held that stock standing in testator's name in the stock register of the Post Office Savings Bank was a savings bank deposit. Held that a letter, subsequent to the will, was evidence that testator was in the habit of referring to Government stock as “Consols.”—RE WINDSOR, *Warrington, J.*, 553.

See also Charity, Perpetuities, Settlement.

WORKMEN'S COMPENSATION :—

1. *Agreement for registration—Dispute—Arbitration—Duration of compensation.*—Employers agreed to pay compensation at a certain sum per week, but declined to enter into an agreement to be filed unless it limited the payments to the period of the workman's incapacity. The workmen refused this and applied to have compensation settled by arbitration.

Held, that there was no dispute as to the duration of compensation which could be referred to arbitration.—PAYNE v. FORTESQUE, *C.A.*, 80; 1912, 3 K. B. 346.

2. *Arbitration—“If any question arises”—Compensation tendered on condition that workman signed receipt disclaiming admission of future liability—“Duration” of incapacity—Right to arbitration where no recordable agreement—Workmen's Compensation Act, 1906, s.1 (3).*—A miner employed by the appellant company at their colliery at Lankhall sustained an injury to his left eye in the course of his employment which totally incapacitated him. There was no question as to the amount which the company were to pay him, which was agreed at 14s. 9d. a week on the basis of total incapacity, but when the employers tendered him compensation, they required him to sign a receipt for the payments to the effect that each payment involved no admission of liability to pay any compensation thereafter. The workman refused, and brought proceedings for arbitration.

Held, that there was a question as to duration of compensation, and the proceedings were competent.

Decision of Court of Session, Scotland, reported 49 Sc. L. R. 841; 5 B. W. C. C. 598, affirmed.—SUMMERLEE IRON CO. v. FREE-LAND, *H.L.*, 281; 1913, A. C. 221.

3. *Average weekly earnings—Method of computation—Casual dock labourer—Grades—Preferential claim to employment—Strikebreaker—Schedule I, 2 (a).*—Casual dock labourers were divided by the Authority employing them into two classes—(1) registered and supplied with an identification ticket; (2) unregistered. Both classes were paid at the same rate per hour, but the registered men were given the preference in the daily allotment of work, and were therefore able, as a rule, to put in more time at work and earn more than unregistered men.

Held, by Buckley and Hamilton, L.J.J., Cozens-Hardy, M.R., dissenting, that these classes constituted two separate grades for the purpose of computing average weekly earnings for compensation.

A casual dock labourer employed during a long-continued strike of regular labour was thereby enabled to retain more work and to earn more than he would have done, had there been no strike.

Held, that this circumstance must be taken into consideration in computing his average weekly earnings for the purpose of compensation.—BARNETT v. PORT OF LONDON AUTHORITY, *C.A.*, 282; 1913, 2 K. B., 115.

4. *Average weekly earnings—Seasonal trade—Temporary employ-*

ment.—A carpenter's earnings were less in winter than in summer owing to the shortness of the hours and to the weather. He emigrated to Canada, but returned to this country on a visit for the winter, intending to go back in April. His old employers knowing the facts gave him employment, and after working for them for nine weeks he was injured.

Held, that in assessing compensation the county court judge might properly take the average of his earnings over the nine weeks and disregard the fact that workmen in the same trade could earn more in summer.—*GODDIN v. COWLEN, C.A.*, 282; 1913, 1 K. B. 590.

5. *Average weekly earnings—Special expenses—Payment of gang by division of a lump sum—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58)—Schedule I, 2 (d).*—Where a miner was a member of a gang who were paid by receiving at the end of the week an aliquot share, according to the number of hours worked by each, of a total sum calculated upon a percentage basis, according to the tonnage raised, subject to a deduction before division of the cost of the blasting powder used by the gang in the week, and supplied by the employers at cost price.

Held, that in assessing compensation for injury the "average weekly earnings" were not ascertained until after the deduction of the cost of the powder, and that the latter was not included under "special expenses" within Schedule II, 2 (d).—*SHIPP v. FRODINGHAM IRON AND STEEL CO., C.A.*, 284; 1913, 1 K. B. 571.

6. *Certified scheme for contracting out of Act—Accident to members of scheme—Expiry of scheme—Exhaustion of funds—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58)*.—Where a workman joins a certified scheme for contracting out of the Workmen's Compensation Acts, he enjoys the benefits of the scheme in substitution for those provided by the Acts, and the employer is under no liability to pay him compensation for an accident which may occur to him while the scheme is subsisting, notwithstanding that it may subsequently expire, and its funds become exhausted.—*HOWARTH v. ANDREW KNOWLES & SONS, C.A.*, 728.

7. *Company—Winding-up—Employers' Contract with Insurers—Liability of Insurers—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 5.*—A colliery company insured their workmen with an indemnity company. During the continuance of the policy the appellant Daff, a collier, was injured by accident, and was paid compensation by the indemnity company. The colliery company subsequently went into voluntary liquidation, and the indemnity company denied further liability on the ground that the premiums on the policy were not kept up by the company in liquidation, and therefore the colliery was no longer a "protected" mine.

Held, reversing the order of the Court of Appeal, that upon the true construction of Clause 11 of the Articles of Association of the indemnity company, their liability to the colliery in respect of the compensation payable to this workman arose at the date of the accident, and was not affected, so far as he was concerned, by the subsequent conduct of the colliery company.

Decision of Court of Appeal (5 B. W. C. C. 671, 107 L.T. 836) reversed.—*DAFF v. MIDLAND COLLIERY OWNERS' MUTUAL INDEMNITY CO., LIMITED, C.A.*, 773.

8. *Compensation agreed—Payment into court—By other agents than solicitors—Workmen's Compensation Rules, 1907-11, rule 56a and form 53.*—Notwithstanding the terms of rule 56a and form 53 of the Workmen's Compensation Rules, 1907-11, where an amount of compensation has been agreed, it can be paid into court by other agents of the employers than their solicitors, and the receipt sent with the money may be signed by such agents, e.g., the Shipping Federation.—*THOMPSON v. PITT TAYLOR, K.B.D.*, 479.

9. *Course of employment—Act outside scope of employment—Unreasonable conduct.*—A workman employed to perform certain work by manual labour devised a means of expediting the work and saving trouble, which involved making an unauthorized use of motive power, and was accompanied by considerable risk of injury.

Held, that an accident which happened to him while so occupied did not arise out of, and in the course of, his employment.—*PLUMB v. COBDEN FLOUR MILLS, C.A.*, 264.

10. *Course of employment—Cycling home from work—Bicycle provided by employers—Employment over for the day—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58), s. 1.*—A workman was employed to look after agricultural machines, an occupation which involved his travelling considerable distances, for which his employers provided him with a bicycle. Having left off work for the day, he essayed to ride home several miles away, and when within a short distance of his destination he met his death as the result of a collision with a motor.

Held, that the accident did not arise in the course of the employment.

Cremins v. Guest, Keen & Nettlefold (Limited) (1908, 1 K. B. 469), distinguished.—EDWARDS v. WINGHAM AGRICULTURAL IMPLEMENT CO., C.A., 701.

11. *Course of employment—Evidence—Scratch—Blood-poisoning—Subsequent infection.*—Where a workman returns from work with an injury of a kind often received by persons engaged in the same class of work, the judge may infer that there has been an accident arising out of, and in the course of, his employment. A workman so injured subsequently died of blood-poisoning, which the doctor deposed must have resulted from a scratch on the arm or hand, and which was not otherwise accounted for than by such injury.

Held, that this was evidence from which the judge might draw the conclusion that death had resulted from the accident.—*FLEET v. JOHNSON, C.A.*, 226.

12. *Course of employment—Risk increased by negligence.*—A man employed as a trimmer on a steam trawler was standing on a sloping plank connecting the trawler with the quay, engaged in discharging a cargo of fish. It having become necessary to lower the shore end of the plank, instead of getting off it as requested, he grasped and rested his weight upon the stem of an adjoining trawler. While so doing, he slipped, and fell into the dock, the effect of the immersion causing his death.

Held, reversing the decision of the county court judge, that the accident arose out of and in the course of, his employment.—*GALLANT v. "GABIR," C.A.*, 225.

13. *Course of employment—Termination of employment—Reasonable facilities for landing from ship.*—A steamship having arrived in dock was moored to a dolphin, a structure forming part of the dock premises, connected by bridges and planks with the permanent dock, and not under the control of the shipowners in any way. A member of the crew, having been paid off descended ladder safely on to the dolphin, but fell into the dock in going from the dolphin on to the quay, and was drowned.

Held, that the accident did not arise out of, and in the course of the employment.—*COOK v. OWNERS OF "MONTREAL," C.A.*, 282.

14. *Course of employment—Unprovoked assault by drunken man—Injury causing death.*—Where a carter in charge of the employer's horse and cart was waiting in the street for orders, and was subjected to an unprovoked assault from a drunken bystander, whom he warned against interfering with the horse (which he appeared to be doing), the injuries sustained causing his death.

Held, that his death did not result from injury by accident arising out of his employment.

Blake v. Head (5 Batterworth W. C. C. 303) applied.
Nisbet v. Rayne (54 SOLICITORS' JOURNAL, 719; 1910, 2 K. B. 689) distinguished.—*MITCHINSON v. DAY, C.A.*, 300; 1913, 1 K. B. 603.

15. *Costs of proceedings—Jurisdiction to order payment by successful party.*—Where a party to a proceeding under the Workmen's Compensation Act, 1906, is successful, and has been guilty of improper conduct, it cannot be an exercise of judicial discretion to order him to pay the costs of the other side.

Foster v. Great Western Railway (8 Q. B. D. 515) followed.—*KIERSON v. THOMPSON, C.A.*, 226; 1913, 1 K. B. 587.

16. *Dangerous employment—Laxity in enforcing rules for protection—“Serious and wilful misconduct”—Availability of misconduct as defence—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58) s. 1 (2).*—A girl of fourteen, employed in bottling aerated water, was injured in her hand and arm by the explosion of a bottle. By regulations made under the Factory Acts all bottlers were required to wear gauntlets as a protection, and such gauntlets were provided by the employer, who personally insisted, as far as possible, on their being used. The injured girl was not wearing any gauntlet at the time of the accident, and there was evidence that the forewoman, whose duty it was to see that she did, was lax in enforcing the regulations. The county court judge held that having regard to such laxity, the defence of serious and wilful misconduct was not available to the employer.

Held, that this was a finding that the injury was not attributable to the serious and wilful misconduct of the girl, and that the award in her favour was right.—*CASEY v. HUMPHRIES, C.A.*, 716.

17. *Dependency—Posthumous illegitimate child—Admissibility of hearsay evidence—Declaration of intention to offer marriage—Statement against pecuniary interest.*—A collier met with his death by accident arising out of his employment. A claim to compensation having been made on behalf of an illegitimate child, born some months later, as his dependant, and there being evidence that the deceased had admitted impending paternity.

Held, that a declaration by the deceased that he intended to marry the mother of the child was not a statement made contrary to the declarant's pecuniary interest at the time, and was therefore inadmissible in evidence.

Held, too, that the evidence of paternity was insufficient to enable dependency to be inferred.

Schofield v. Orrell Colliery Co. (Limited) (53 SOLICITORS JOURNAL, 518; 1909, A. C. 433) distinguished.—*WARD v. Pitt, C.A.*, 301; 1913, 2 K. B. 130.

18. *Dependants—Children deserted by father—Decree of aliment unenforced because of disappearance of father—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 13.—A workman deserted his wife and children in 1907. During the next two years he gave occasional small sums to the children. In 1909 he went away, and a decree of aliment was obtained against him, and one small sum was arrested out of his wages. He then disappeared, and evaded search until he died by accident in April, 1911. A sum due to him for wages at the time of the accident was paid to the widow after his death.

Held, that the question of dependency was one of fact for the arbitrator to decide, and that there was evidence on which he could find in the affirmative.—*YOUNG v. NIDRIE AND BENHAR COAL CO., H.L.*, 685.

19. "Employer"—"Meter and weigher"—*Appointment and licence by harbour authority—Employment in connection with unloading vessel—Evidence—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 13—*King's Lynn Conservancy Act, 1897*.—A workman who had been appointed an "assistant meter and weigher" by a harbour board acting under statutory powers, and had thereby acquired a right to be employed in rotation to measure and weigh cargo unloaded from vessels in the harbour, met with injury by accident in the course of the employment. The steamship company, under the Act regulating the harbour, applied to the board for the meters they required, and had no choice as to the men sent. Payment was made to a head man, who divided the sum received, less expenses, among the meters under him. The steamship company exercised control as to how, when, and where the work was to be done.

Held, that there was evidence from which the arbitrator might properly find that the steamship company were the workmen's employers, and that he was not an independent contractor.—*WILMERSON v. LYNN AND HAMBURG STEAMSHIP CO., C.A.*, 700.

20. *Heart disease supervening—Incapacity for work arising independently of effects of accident*.—Where a collier met with an accident by which he injured his knee, and later on with a second accident to the same knee, both resulting in incapacity for work, for which compensation was paid to him, and finally was found to be suffering from heart disease, which incapacitated him, independently of the effects of the accidents.

Held, that as the inability to earn wages caused by the injuries sustained still continued, apart from the supervening disease, he was entitled to be paid compensation during such inability.—*HARWOOD v. WYKEN COLLIERY, C.A.*, 300; 1913, 2 K. B. 158.

21. *Indemnity—Negligence of third party—Third party notice not given before action brought—Right to maintain action apart from the rules—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 6—*Workmen's Compensation Rules, 1907-1912, rr. 19, 24*.—An employer can, if he chooses, exercise his right to claim indemnity by action under section 6 (2) of the Workmen's Compensation Act, 1906, independently of the rules under that Act as to third party procedure.—*NETTLEINGHAM v. POWELL, C.A.*, 593; 1913, 1 K. B. 113.

22. *Industrial disease—Certifying surgeon—Appeal to medical referee from "refusal" to give certificate of disablement—Powers of medical referee—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 8—Where a certifying surgeon, under the Workmen's Compensation Act, 1906, section 8, gives a workman suffering from an industrial disease a certificate to that effect, but does not fix the date of disablement, or fixes it at a time which is later than that claimed by the workman or otherwise does not give the certificate asked for, the workman has a right of appeal to a medical referee, as from a refusal to give such certificate, and the medical referee has jurisdiction to fix the date of disablement, or alter the date fixed by the certificate.—*BIRKS v. STAFFORD COAL AND IRON CO., C.A.*, 729.

23. *Infancy—Mistake—Power to rectify register—Removal from register—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), Schedule I. (1) (b) (b)—*Schedule II, (9) (c) and (e)*.—Where an agreement awarding compensation for injury was recorded under the Workmen's Compensation Act, Schedule II. (9) between an employer and a girl believed to be under twenty-one, and it was afterwards discovered that she was of full age at the date of the accident.

Held, that there was no power under Schedule II. (9) subsection (c), to rectify the register, by removing the agreement

from it, and substituting another, providing for the payment of half, instead of full, wages, the time for an application under sub-section (e) having expired.—*SCHOFIELD v. CLOUGH, C.A.*, 243; 1913, 2 K. B. 103.

24. *Medical examination—Right of employer to require, after suspension of weekly payments—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), Schedule I. (4), (14), (15)—*Regulations of the Secretary of State, 1907*.—A workman who met with an accident in 1909 received full compensation by agreement with the employers until June, 1912, when they discontinued payments in the belief that the accident had ceased to affect his earning capacity. The workman having commenced proceedings to obtain an award, and having refused the employers' request to submit himself to medical examination, the county court judge suspended proceedings until he should do so.

Held, that the order made was right, and that the employers were entitled to insist upon his submission to medical examination under Schedule I. (4).—*MAJOR v. SOUTH KIRKBY, &c., COLLIERIES, C.A.*, 244; 1913, 2 K. B. 145.

25. *Notice—Failure to give notice of accident—Reasonable cause for delay—Expectation of recovery—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 2 (1) (a).—Where a workman who met with an accident in the course of his employment deliberately neglected for two months to give notice of it to his employer, in the hope and expectation that the effect of it would wear off, and that it would not be necessary to make any claim for compensation.

Held, that the employer having been prejudiced in his defence by want of notice, this expectation was not a reasonable ground for delay within section 2 (1) (a) of the Act. The onus is upon the workman, in such a case, to prove affirmatively that the employer has not been prejudiced by the delay, and in this case was not discharged.—*WEBSTER v. COHEN, C.A.*, 244.

26. *Redemption of a weekly payment upon application of employer—Permanent incapacity—"May redeem"—Award of lump sum by arbitrator—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), Schedule I. (17).—A workman met with injury by accident in the course of his employment necessitating the amputation of his left hand, and received half wages for six months. The employers applied to redeem the weekly payment, and the arbitrator, holding that the injury caused permanent incapacity, made an award in which he said, "The employers may redeem" on payment of £613. The employers refused to accept this award on the ground that the incapacity was not proved to be permanent, and contended that under it they had an option within Schedule I. (17) to continue the weekly payment.

Held, that they were obliged to redeem by payment of the sum awarded.—*CALICO PRINTERS' ASSOCIATION v. BOOTH, C.A.*, 662.

27. *Review of weekly payment—Permanent partial incapacity—Infant—Offer of suitable work at increased wages—Termination of award—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58) Schedule I. (16).—A work-girl, 17 years old, employed in a factory, lost one of the fingers of her left hand by accident, while attending to a machine, and obtained an award of 3s. a week. Later the employers applied to terminate the award and offered her suitable employment in their works, not involving any danger through machinery, at higher wages than her average wage before the accident. The county court judge refused to disturb the award.

Held, that since he had not purposed to exercise any discretion under the proviso to Schedule I. (16), and as there was no evidence on which he could have done so, the award ought to be terminated.—*CLARKE, NICHOLLS & COOMBS (LIM.) v. KNOX, C.A.*, 793.

28. *Review of weekly payment—Workman's recovery—"If any question arises"—Settlement of any matter by arbitration—Liberty to apply—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58), s. 1 (3), Schedule I. (16)—*Workmen's Compensation Rules, rr. 8 (1), (2), 9, Form 5*.—A workman met with an accident, and an agreement was recorded under which he was in receipt of a weekly payment, without any proceedings having been taken. The employers, believing that he had completely recovered, filed an application pursuant to Form 5 of Appendix B, asking for a review and termination of the weekly payment. The workman contended that the county court judge had no jurisdiction, because no question or dispute had arisen between the parties.

Held, that the right to review was not dependent on the existence of a question or dispute between the parties, and that rule 8 (1) must be read subject to this exception which was implied by Form 5.—*TYNE TEE SHIPPING CO. v. WHITLOCK, C.A.*, 716.

29. *Share of profits—Poundage—Crew remunerated by share of profits—Workmen's Compensation Act, 1906* (6 Ed. 7, c. 58) s. 7 (2).

—A member of a crew of a fishing trawler was remunerated by a fixed weekly wage, together with a poundage on the net profits of the voyage.

Held, that he was within the exception contained in section 7 (2) and was excluded from the Act as being remunerated by a share in profits.

Decision of Court of Appeal (56 SOLICITORS' JOURNAL, 720) affirmed.—COSTELLO v. KELSALL BROS., H.L., 609.

30. "Workman"—Employment of a casual nature—Jobbing gardener—Workmen's Compensation Act, (6 Ed. 7, c. 58), s. 13.—A man who described himself as a jobbing gardener was employed at a daily wage in lopping trees and doing other work in a private garden for a period which had lasted five weeks, when he was incapacitated by accident.

Held, in a claim for compensation that he was not a "workman" within the definition of the Act, as his employment was of a casual nature.—KNIGHT v. BUCKNILL, C.A., 245.

31. Partial incapacity—Mental infirmity supervening—Insufficient medical evidence to prove complete recovery—Workmen's Compensation Act, 1906 (6 Ed. 7, c. 58).—A miner met with an accident, causing injury to his back, and involving complete incapacity for nearly two years, at the end of which he was put on light work on the surface. After a time he asked to be allowed to try his old work again, but owing to symptoms of mental infirmity he was prohibited from descending the mine. The employers applied to terminate or diminish the compensation on the ground of recovery, but their medical evidence only dealt with the workman's mental and not his physical condition, and the arbitrator was not satisfied with it, and dismissed the application without hearing the respondent's evidence.

Held, that he was justified in so doing.—NEW MONCKTON COLLIERIES v. TOONE, C.A., 753.

See also Costs.

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CHAPTER 13.

[LONDON INSTITUTION (TRANSFER) ACT, 1912.]

An Act to provide for the transfer to the Commissioners of Works of certain property of the London Institution for the purposes of a School of Oriental Studies, and for the dissolution of the Institution, and for purposes in connection therewith.

[13th December 1912.]

CHAPTER 14.

[PROTECTION OF ANIMALS (SCOTLAND) ACT, 1912.]

An Act to consolidate and amend enactments relating to Animals and Knackers; and to make further provision with respect thereto.

[13th December 1912.]

CHAPTER 15.

[MARRIAGES IN JAPAN (VALIDITY) ACT, 1912.]

An Act to remove doubts as to the validity of certain marriages solemnized in the Empire of Japan.

[13th December 1912.]

CHAPTER 16.

[ROYAL SCOTTISH MUSEUM (EXTENSION) ACT, 1912.]

An Act to make provision for the Acquisition of Property for the Extension of the Royal Scottish Museum at Edinburgh.

[13th December 1912.]

CHAPTER 17.

[PROTECTION OF ANIMALS ACT (1911) AMENDMENT ACT, 1912.]

An Act to amend the Protection of Animals Act, 1911, in respect of its Imprisonment Penalty.

[13th December 1912.]

Be it enacted, &c. :

1. Diminution of penalty. [Sub-section (1) of section 1 of the Protection of Animals Act, 1911 [1 & 2 Geo. 5, c. 27 s. 1 (1)], shall be amended by substituting the word "three" for the word "six."]

2. Short title. [This Act may be cited as the Protection of Animals Act (1911) Amendment Act, 1912.]

CHAPTER 18.

[EXPIRING LAWS CONTINUANCE ACT, 1912.]

An Act to continue various Expiring Laws.

[13th December 1912.]

CHAPTER 19.

[LIGHT RAILWAYS ACT, 1912.]

An Act to continue and amend the Light Railways Act, 1896.

[13th December 1912.]

Be it enacted, &c. :

1. Power of Board of Trade to submit order to Parliament. [—(1) If any order under the Light Railways Act, 1896 [59 & 60 Vict. c. 48] (in this Act referred to as the principal Act), is not confirmed by the Board of Trade on the ground that the proposals of the promoters ought to be submitted to Parliament in pursuance of sub-section (3) of section nine of the principal Act, the Board may, if they think fit, submit the proposals to Parliament by bringing in a Bill for the confirmation of the Order.

(2) If, while a Bill confirming any such Order is pending in either House of Parliament, a petition is presented against the Order, the Bill, so far as it relates to the Order, may be referred to a Select Committee, or, if the two Houses of Parliament think fit so to order, to a Joint Committee of both Houses, and the petitioner shall be allowed to appear and oppose as in the case of Private Bills.

(3) On bringing in a Bill under this section for the confirmation of an Order, the Board of Trade

shall make a special report to Parliament with respect to the Order.

2. Extension of limit on amount available for special advances. [The sum of seven hundred and fifty thousand pounds shall be substituted in section six of the principal Act for two hundred and fifty thousand pounds as the limit of the amount which may be expended for the purpose of special advances under that Act.

3. Reference to Light Railway Commissioners of applications for advances under the Development and Road Improvement Funds Act, 1909.

In the case of an application for an advance under Part I. of the Development and Road Improvement Funds Act, 1909 [9 Edw. 7, c. 47] for the purpose of a light railway in Great Britain by any body or person other than a Government Department, the Light Railway Commissioners shall, for the purposes of section four of that Act, be taken to be the Government Department concerned, and accordingly the application shall be sent by the Treasury under that section to the Light Railway Commissioners, to be by them referred, together with their report thereon, to the Development Commissioners.

4. Power to modify s. 92 of 8 & 9 Vict. c. 18, or as respects Scotland, s. 90 of 8 & 9 Vict. c. 19.

Notwithstanding anything contained in section eleven of the principal Act, provision may be made by an Order under the principal Act for varying section ninety-two of the Lands Clauses Consolidation Act, 1845, or section ninety of the Lands Clauses Consolidated (Scotland) Act, 1845, as incorporated in the Order in such a manner as to provide for the taking of part only of a house, building, or manufactory, except where it is shown to the authority to whom the question of disputed compensation is submitted that that part cannot be severed from the remainder of the property without material detriment thereto, but no such provision shall be made unless the Light Railway Commissioners are satisfied that special notice of the proposal to acquire part only of the house, building, or manufactory has been given under paragraph (b) of sub-section (2) of section seven of the principal Act to the owner, lessee, and occupier of the house, building, or manufactory.

5. Miscellaneous amendments of principal Act. —(1) The requirement contained in paragraph (b) of sub-section (2) of section three of the principal Act that the expenditure of a council shall in a certain case be limited by the Order shall be amended by the substitution of the words "such amount as the Board of Trade think fit under the circumstances" for the words "such amount as will, in the opinion of the Board of Trade, bear due proportion to the benefit which may be expected to accrue to their area from the construction or working of the railway."

(2) There shall be substituted for the words "a railway company existing at the time will construct and work the railway if an advance is made by the Treasury under this section" in sub-section (1) of section five of the principal Act, the words "a railway company working railways open for traffic has entered into an undertaking, subject to an advance being made by the Treasury under this section, to work the light railway when constructed."

(3) The following paragraphs shall be substituted for paragraphs (c) and (d) of section eleven of the principal Act:—

"(c) giving the necessary powers for constructing and working the railway and any works incidental thereto, including power to make agreements with any railway or other company, or any authority, person, or body of persons, for the purpose; and

(d) giving any railway or any other company or any authority, person, or body of persons, any power required for carrying the order into effect; and"

(4) In subsection (1) of section sixteen of the principal Act a reference to an application for an order under that Act shall include a reference to an intended application for such an order, and a reference to parishes shall include a reference to parts of parishes.

(5) It is hereby declared that the fixed period

referred to in subsection (4) of section sixteen of the principal Act need not be a period fixed by the order, but may be a period fixed as occasion requires by the Board of Trade or other Government Department.

(6) Notwithstanding anything in section sixteen of the principal Act, any expenses incurred by the council of a borough with reference to the application for a light railway order, or in pursuance of such an order, may be made payable either out of the borough fund or rate, or as expenses incurred in the execution of the Public Health Acts as the order may prescribe.

6. Amendment of section 24 of principal Act as to amending orders. [Where a light railway order authorising the construction of a light railway on public roads empowers any local authority to acquire the railway, and an application is made under the principal Act by any local or road authorities in whose area any part of the railway is situate for an order amending the original order, the amending order may, notwithstanding anything in proviso (c) of section twenty-four of the principal Act, determine or vary the authorities by whom the railway may be acquired, and may provide for the maintenance, management, and working of the railway when acquired under the order, and may make such further provisions as are necessary for giving full effect to the order:

Provided that the provisions of the original order relating to the period within which the right of acquiring the railway must be exercised, and to the basis on which the purchase money is to be assessed, shall not be altered by the amending order without the consent of the owners of the railway.

7. Winding-up of the light railway company on sale of undertaking. [Where, on the application of any company incorporated by an order under the principal Act, it is shown to the satisfaction of the Board of Trade, either by statutory declaration or such other evidence as the Board consider sufficient, that the company have, owing to the sale of their undertaking or otherwise, ceased to be in a position to carry out the objects for which they were incorporated, the Board of Trade may, if they think fit, by order declare that the company shall be wound up, and on any such order being made the provisions of the Companies (Consolidation) Act, 1908 [8 Edw. 7, c. 69], shall apply as if the company were a company within the meaning of that Act, and had resolved by special resolution that the company be wound up voluntarily.

8. Light Railway Commissioners as arbitrators. —(1) Any matter which, under any light railway order, whether made before or after the passing of this Act, is to be determined by arbitration, shall be determined by the Light Railway Commissioners as arbitrators, if the parties make a joint application to the Commissioners for the purpose, and, whereunder any such order the Board of Trade have power to appoint an arbitrator for the determination of any matter, the Board of Trade may, with the consent of the parties, appoint the Light Railway Commissioners to be arbitrators.

(2) Where the Light Railway Commissioners act as arbitrators under this section, whether in pursuance of an agreement between the parties or of an appointment by the Board of Trade, the Board of Trade Arbitrations, etc., Act, 1874 [37 and 38 Vict., c. 40], shall apply as if the Light Railway Commissioners were appointed arbitrators by the Board of Trade in pursuance of a special Act, and the Arbitration Act, 1889 [52 and 53 Vict., c. 49], shall apply for the purpose of the determination of the matter by the Light Railway Commissioners as if the arbitration were pursuant to a submission.

9. Arbitration. —(1) Subject to the special provisions of this Act with respect to the Light Railway Commissioners acting as arbitrators, any matter which under any light railway order, made after the passing of this Act, is to be determined by arbitration shall, subject to any special provisions of the order, be determined by the Board of Trade, or, if the Board of Trade think fit, by a single arbitrator appointed by them.

(2) The Board of Trade Arbitrations, etc., Act, 1874, shall apply with reference to the determination by the Board of any matter referred to them and to the appointment of an arbitrator, as if this Act or the light railway order were a special Act within the meaning of section four of the said Board of Trade Arbitrations, etc., Act, 1874.

(3) The Arbitration Act, 1889, shall apply for the purpose of the determination of any matter by an arbitrator appointed by the Board of Trade as if the arbitration were pursuant to a submission.

10. Continuance of powers of Light Railway Commissioners.] The powers of the Light Railway Commissioners under the principal Act shall continue for five years after the date of the passing of this Act.

11. Short title.] This Act may be cited as the Light Railways Act, 1912, and shall be read as one with the principal Act, and the principal Act and this Act may be cited together as the Light Railways Acts, 1896 and 1912.

CHAPTER 20.

[CRIMINAL LAW AMENDMENT ACT, 1912.]

An Act to amend the Criminal Law Amendment Act, 1885, the Vagrancy Act, 1898, and the Immoral Traffic (Scotland) Act, 1902.

[13th December 1912.]

Be it enacted &c.:

1. Power to arrest without warrant persons offending against 48 and 49 Vict., c. 69, s. 2.] A constable may take into custody without a warrant any person whom he shall have good cause to suspect of having committed, or of attempting to commit, any offence against section two of the Criminal Law Amendment Act, 1885 (which relates to procuration and attempted procuration).

2. Amendment of 48 and 49 Vict., c. 69, s. 2.] In paragraphs (3) and (4) of section two of the Criminal Law Amendment Act, 1885, the words "or frequent" shall be inserted after the words "an inmate of" wherever those words occur.

3. Increased penalties for procurers.] Any male person who is convicted under section two of the Criminal Law Amendment Act, 1885, may, at the discretion of the court, and in addition to any term of imprisonment awarded in respect of the said offence, be sentenced to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence.

4. Suppression of brothels.] (1) Section thirteen of the Criminal Law Amendment Act, 1885, shall, so far as it relates to brothels, be amended by inserting after the word "occupier" the words "or person in charge."

(2) Any person who is convicted of a third or subsequent offence against the said section thirteen shall be liable on summary conviction to a penalty not exceeding one hundred pounds or, in the discretion of the court, to imprisonment for any term not exceeding twelve months, with or without hard labour, and, in addition to any such penalty or imprisonment, may be required by the court to enter into a recognizance with or without sureties, or in Scotland to grant a bond of caution, to be of good behaviour for any period not exceeding twelve months, and, in default of entering into such recognizance, or granting such bond, such person may be imprisoned for a period not exceeding three months in addition to any term of imprisonment awarded in respect of his said offence.

(3) The provisions of section thirteen of the Criminal Law Amendment Act, 1885, in so far as they relate to third or subsequent offences, are hereby repealed.

5. Determination of tenancy of premises on conviction for permitting use as brothel, etc.] (1) Upon the conviction, after the passing of this Act, of the tenant, lessee, or occupier of any premises of knowingly permitting the premises, or any part thereof, to be used as a brothel, the landlord or lessor shall be entitled to require the person so convicted to assign the lease or other contract under which the said premises are held

by him to some person approved by the landlord or lessor, which approval shall not be unreasonably withheld, and, in the event of the person so convicted failing within three months to assign the lease or contract as aforesaid, the landlord or lessor shall be entitled to determine the lease or other contract but without prejudice to the rights or remedies of any party to such lease or contract accrued before the date of such determination. If the landlord or lessor should so determine the lease or other contract of tenancy, the court which has convicted the tenant, lessee, or occupier shall have power to make a summary order for delivery of possession to the landlord or lessor.

(2) If the landlord or lessor after such conviction has been brought to his notice fails to exercise his rights under the foregoing provisions of this section and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have knowingly aided or abetted the commission of that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(3) Where a landlord or lessor determines a lease or other contract under the powers conferred by this section and subsequently grants another lease or enters into another contract of tenancy to, with, or for the benefit of the same person without causing to be inserted in such lease or contract all reasonable provisions for the prevention of a recurrence of any such offence as aforesaid, he shall be deemed to have failed to exercise his rights under the foregoing provisions of this section, and any such offence as aforesaid committed during the subsistence of the subsequent lease or contract shall be deemed, for the purposes of this section, to have been committed during the subsistence of the previous lease or contract.

(4) A person quitting premises in Ireland held by him under a lease or contract which has been determined in pursuance of this Act shall not be entitled to compensation under the Town Tenants (Ireland) Act, 1906 [Edw. 7, c. 54].

6. Determination of tenancy of premises on conviction for permitting use as brothel, etc., in Scotland.] (1) The provisions in section four hundred and three of the Burgh Police (Scotland) Act, 1892 [55 and 56 Vict., c. 55], relating to the voidance or termination of any lease or arrangement to let shall apply in like manner upon a conviction under section thirteen of the Criminal Law Amendment Act, 1885, as amended by this Act.

(2) This section shall be substituted in Scotland for section five of this Act.

7. Amendments of 61 and 62 Vict., c. 39, and 2 Edw. 7, c. 11.] (1) In section one of the Vagrancy Act, 1898, and in section one of the Immoral Traffic (Scotland) Act, 1902, in subsection (3) (which deals with the evidence of living on the earnings of prostitution) there shall be substituted for the words "and has no visible means of subsistence" the words "or is proved to have exercised control, direction, or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting, or compelling her prostitution with any other person or generally."

(2) The period of imprisonment with hard labour which may be awarded to a person deemed to be a rogue and vagabond under the Vagrancy Act, 1898, or to a person convicted summarily of a crime and offence under the Immoral Traffic (Scotland) Act, 1902, shall be increased to six months, but such person shall not be liable to be dealt with as an incorrigible rogue within the meaning of the Vagrancy Act, 1824 [5 Geo. 4, c. 83]. Save as aforesaid, nothing in this subsection shall affect the powers of a court of summary jurisdiction to deal with a person deemed to be a rogue and vagabond under the Vagrancy Act, 1898, anything in any other Act to the contrary notwithstanding.

(3) The Vagrancy Act, 1898, as amended by this section, shall extend to Ireland with this modification, that for the words "be deemed a

rogue and vagabond within the meaning of the Vagrancy Act, 1824, and be liable to be dealt with accordingly" there shall be substituted the words "be liable on summary conviction to imprisonment for a term not exceeding six months with hard labour."

(4) Every female who is proved to have, for the purposes of gain, exercised control, direction or influence over the movements of a prostitute in such a manner as to show that she is aiding, abetting, or compelling her prostitution with any person, or generally, shall be guilty of an offence under the Vagrancy Act, 1898, or in Scotland under the Immoral Traffic (Scotland) Act, 1902, and those Acts as amended and extended by this section shall apply accordingly.

(5) A person charged with an offence under the Vagrancy Act, 1898, or the Immoral Traffic (Scotland) Act, 1902, may, instead of being proceeded against in England as a rogue and vagabond, or in Scotland or Ireland summarily, be proceeded against on indictment, and on conviction on indictment shall be liable to imprisonment, with or without hard labour, for a term not exceeding two years, and, in the case of a second or subsequent conviction, such second or subsequent conviction being a conviction on indictment, the court may, in addition to any term of imprisonment awarded, sentence the offender if a male to be once privately whipped, and the number of strokes and the instrument with which they shall be inflicted shall be specified by the court in the sentence.

(6) The wife or husband of a person charged with an offence under either of the said Acts may be called as a witness either for the prosecution or defence and without the consent of the person charged, but nothing in this provision shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person.

8. Restriction on application of Act.] This Act shall not apply to proceedings pending at the commencement of this Act.

9. Short title and commencement.] This Act may be cited as the Criminal Law Amendment Act, 1912; and the Criminal Law Amendment Act, 1885, and this Act may be cited together as the Criminal Law Amendment Acts, 1885 to 1912.

CHAPTER 21.

[AGRICULTURAL HOLDINGS ACT, 1913.]

An Act to remove doubts as to the effect of subsection (2) of section forty-two of the Agricultural Holdings Act, 1908, and the enactments re-enacted in that subsection.

[14th February 1913.]

Be it enacted, &c.:

1. Removal of doubts as to effect of 8 Edw. 7, c. 28, s. 42 (2), &c.] (1) For removing doubts as to the effect of subsection (2) of section forty-two of the Agricultural Holdings Act, 1908, and any enactment which is re-enacted by that subsection, it is hereby declared that a tenancy from year to year under a contract of tenancy current on the first day of January, eighteen hundred and ninety-six, shall not be deemed to have been determined thereafter by virtue of any provision contained in section sixty-one of the Agricultural Holdings (England) Act, 1883 [46 & 47 Vict., c. 61], and the said subsection shall be repealed from the words "Provided that" to the end of the sub-section.

(2) This Act shall apply to any claim for compensation which has not before the passing of this Act been determined by any judgment or order of a court of competent jurisdiction or award or agreement, whether the improvement to which the claim relates was made or begun before or after the commencement of the Agricultural Holdings Act, 1908.

2. Short title.] This Act may be cited as the Agricultural Holdings Act, 1913, and the Agricultural Holdings Act, 1908, and this Act may be cited together as the Agricultural Holdings Acts, 1908 and 1913.

Statutes.

2 & 3 GEO. 5, Ch. 22-29.

CHAPTER 22.

[AERIAL NAVIGATION ACT, 1913.]

An Act to amend the Aerial Navigation Act, 1911.
[14th February 1913.]

Be it enacted, &c.:

1. Extension of power of Secretary of State to regulate aircraft.—(1) The purposes for which a Secretary of State may make orders prohibiting the navigation of aircraft over prescribed areas under the Aerial Navigation Act, 1911 [1 & 2 Geo. 5, c. 4], shall include the purposes of the defence or safety of the realm, and, where an order is made for those purposes, the area prescribed may include the whole or any part of the coastline of the United Kingdom and the territorial waters adjacent thereto.

(2) The power of the Secretary of State under the said Act shall include power by order to prescribe the areas within which aircraft coming from any place outside the United Kingdom are to land and the other conditions to be complied with by such aircraft, and, if any person contravenes any of the provisions of any such order, he shall be guilty of an offence under the said Act, unless he proves that he was compelled to do so by reason of stress of weather or other circumstances over which he had no control.

2. Power to compel compliance when aircraft disobeys signals.—If an aircraft flies or attempts to fly over any area prescribed under this Act for the purposes of the defence or safety of the realm, or, in the case of an aircraft coming from any place outside the United Kingdom, fails to comply with any of the conditions as to landing prescribed by an order under the last foregoing section, it shall be lawful for any officer designated for the purpose by regulations made by the Secretary of State, to cause such signal as may be prescribed by those regulations to be given, and, if after such signal has been given the aircraft fails to respond to the signal by complying with such regulations as may be made by the Secretary of State prescribing the action to be taken on such a signal being given, it shall be lawful for the officer to fire at or into such aircraft, and to use any and every other means necessary to compel compliance, and every and any such officer and every other person acting in his aid and by his direction shall be and is hereby indemnified and discharged from any indictment, penalty, action, or other proceeding for so doing.

3. Short title.—This Act may be cited as the Aerial Navigation Act, 1913, and the Aerial Navigation Act, 1911, and this Act may be cited together as the Aerial Navigation Acts, 1911 and 1913.

CHAPTER 23.

[CLERKS OF SESSION (SCOTLAND) REGULATION ACT, 1913.]

An Act to reduce the number of Principal Clerks of the Court of Session in Scotland.
[7th March 1913.]

CHAPTER 24.

[SHOPS ACT, 1913.]

An Act to amend the Shops Act, 1912, in its application to premises for the sale of refreshments.
[7th March 1913.]

Be it enacted, &c.:

1. Amendment of 2 Geo. 5, c. 3, in its application to premises for the sale of refreshments.—(1) The provisions of section one of the Shops Act, 1912, shall not apply to shop assistants employed in any premises for the sale of refreshments, whether licensed for the sale of intoxicating liquor or not, if their employment is wholly or mainly in connection with the sale of intoxicating liquors or refreshments for consumption on the premises, and if the occupier of the premises, by such a notice as is hereinafter mentioned, signifies that he elects that instead of those provisions the following provisions shall apply:—

(a) No such assistant shall be employed for

more than sixty-five hours in any week exclusive of meal times.

(b) Provision shall be made for securing to every such assistant—

(i) thirty-two whole holidays on a week day in every year, of which at least two shall be given within the currency of each month and which shall comprise a holiday on full pay of not less than six consecutive days;

(ii) twenty-six whole holidays on Sunday in every year, so distributed that at least one out of every three consecutive Sundays shall be a whole holiday:

Provided that two half holidays on a week day shall be deemed equivalent to one whole holiday on a week day.

(c) Intervals for meals shall be allowed to every such assistant amounting on a half holiday to not less than three-quarters of an hour, and on every other day to not less than two hours, and no assistant shall be employed for more than six hours without being allowed an interval of at least half an hour:

Provided that this provision shall not apply if the only persons employed as such shop assistants are members of the family of the occupier of the premises maintained by him and dwelling in his house.

(d) The occupier shall affix and constantly maintain in a conspicuous position in the premises a notice in the prescribed form referring to the provisions of this section, and stating the steps taken with a view to compliance therewith.

(2) Where the occupier of any premises has signified as aforesaid that he elects that the foregoing provisions shall apply, and any of those provisions are not complied with, the occupier of the premises shall be guilty of an offence against the Shops Act, 1912, and shall be liable to a fine not exceeding—

- (a) in the case of a first offence, one pound;
- (b) in the case of a second offence, five pounds; and
- (c) in the case of a third or subsequent offence, ten pounds.

(3) For the purposes of this section, the expression "half holiday" means a day on which the employment of an assistant ceases not later than three o'clock in the afternoon and on which he is not employed for more than six hours including meal-time.

(4) A notice under this section may be withdrawn by the occupier of the shop at the expiration of a year from the date when it was given, and thereafter at the expiration of any succeeding year, and upon any such withdrawal section one of the Shops Act, 1912, shall apply to the shop in like manner as before the notice was given.

(5) The Shops Act, 1912, as amended by this Act, shall, in its application to any premises in respect to which a notice under this section is in force, have effect as though the definition of "shop assistant" included all persons wholly or mainly employed in any capacity at the premises in connection with the business there carried on.

2. Short title and extent.—(1) This Act may be cited as the Shops Act, 1913, and shall be construed as one with the Shops Act, 1912; and the Shops Act, 1912, and this Act may be cited together as the Shops Acts, 1912 and 1913.

(2) This Act shall not extend to shops in Ireland in which the business of the sale by retail of intoxicating liquors is carried on.

CHAPTER 25.

[TUBERCULOSIS PREVENTION (IRELAND) ACT, 1913.]

An Act to prevent the Spread and provide for the Treatment of Tuberculosis; and for other purposes connected therewith.
[7th March 1913.]

CHAPTER 26.

[PENSIONS (GOVERNORS OF DOMINIONS, &c.) AMENDMENT ACT, 1913.]

An Act to amend subsection (1) of section five of the Pensions (Governors of Dominions, &c.) Act, 1911, with respect to service in British Protectorates and other like service.
[7th March 1913.]

CHAPTER 27.

[APPROPRIATION (1912-3) ACT, 1913.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and thirteen, and to appropriate the Supplies granted in this Session of Parliament.
[7th March 1913.]

CHAPTER 28.

[SHERIFF COURTS (SCOTLAND) ACT, 1913.]

An Act to amend the Sheriff Courts (Scotland) Act, 1907.
[7th March 1913.]

CHAPTER 29.

[RAILWAY AND CANAL TRAFFIC ACT, 1913.]

An Act to amend Section One of the Railway and Canal Traffic Act, 1894, with respect to increases of rates or charges made for the purpose of meeting a rise in the cost of working a railway due to improved labour conditions.
[7th March 1913.]

Be it enacted, &c.:

1. Increased expenditure due to cost of improved labour conditions to be treated as a valid justification of increased rates.—(1) Where on a complaint with respect to any increase (within any limit fixed by an Act of Parliament, or by a Provisional Order confirmed by an Act of Parliament) of any rate of charge under section one of the Railway and Canal Traffic Act, 1894 [57 and 58 Vict., c. 54], the railway company proves to the satisfaction of the Railway and Canal Commissioners—

- (a) that there has been a rise in the cost of working the railway, excluding the cost of carrying and dealing with passengers, resulting from improvements made by the company since the nineteenth day of August, nineteen hundred and eleven, in the conditions of employment of their labour or clerical staff; and

- (b) that the whole of the particular increase of rate or charge of which complaint is made is part of an increase of rates or charges made for the purpose of meeting the said rise in the cost of working; and

- (c) that the increase of rates or charges made for the purpose of meeting the said rise in the cost of working is not, in the whole, greater than is reasonably required for the purpose; and

- (d) that the proportion of the increase of rates or charges allocated to the particular traffic with respect to which the complaint is made is not unreasonable;

the Commissioners shall treat the increase of rate or charge as justified: Provided that nothing in this section shall be construed as preventing the Commissioners from taking into account any circumstances which are relevant to the determination whether an increase of rates or charges is or is not greater than is reasonably required for the purpose of meeting the said rise in the cost of working.

(2) Where it appears to the Commissioners that the increase of the rate or charge of which complaint is made should for the time being be treated as justified in pursuance of this Act, but that an opportunity should be given after a limited time for re-considering the increase, they may, in making an order declaring the increase to be justified, add to their order a provision that the question may, after a period to be fixed by

the Commissioners, be re-opened in accordance with the conditions (if any) made by the order.

(3) Where any such order is made, a complaint may be made as to the increase of the rate or charge under the Railway and Canal Traffic Act, 1894, in accordance with the order of the Commissioners, notwithstanding that the matter has already been determined by the Commissioners.

2. Application of Act.] This Act shall not apply to Ireland.

3. Short title.] This Act may be cited as the Railway and Canal Traffic Act, 1913, and shall be read with the Railway and Canal Traffic Acts, 1873 to 1894.

CHAPTER 30.

[TRADE UNION ACT, 1913.]

An Act to amend the Law with respect to the objects and powers of Trade Unions.

[7th March 1913.]

Be it enacted, &c. :

1. Amendment of law as to objects and powers of trade unions.] (1) The fact that a combination has under its constitution objects or powers other than statutory objects within the meaning of this Act shall not prevent the combination being a trade union for the purposes of the Trade Union Acts, 1871 to 1906, so long as the combination is a trade union as defined by this Act, and, subject to the provisions of this Act as to the furtherance of political objects, any such trade union shall have power to apply the funds of the union for any lawful objects or purposes for the time being authorized under its constitution.

(2) For the purposes of this Act, the expression "statutory objects" means the objects mentioned in section sixteen of the Trade Union Act Amendment Act, 1876 [39 and 40 Vict., c. 22], namely, the regulation of the relations between workmen and masters, or between workmen and workmen, or between masters and masters, or the imposing of restrictive conditions on the conduct of any trade or business, and also the provisions of benefits to members.

2. Definition of trade union.] (1) The expression "trade union" for the purpose of the Trade Union Acts, 1871 to 1906, and this Act, means any combination, whether temporary or permanent, the principal objects of which are under its constitution statutory objects: Provided that any combination which is for the time being registered as a trade union shall be deemed to be a trade union as defined by this Act so long as it continues to be so registered.

(2) The Registrar of Friendly Societies shall not register any combination as a trade union unless, in his opinion, having regard to the constitution of the combination, the principal objects of the combination are statutory objects, and may withdraw the certificate of registration of any such registered trade union if the constitution of the union has been altered in such a manner that, in his opinion, the principal objects of the union are no longer statutory objects, or if, in his opinion, the principal objects for which the union is actually carried on are not statutory objects.

(3) Any unregistered trade union may, if they think fit, at any time without registering the union apply to the Registrar of Friendly Societies for a certificate that the union is a trade union within the meaning of this Act, and the Registrar, if satisfied, having regard to the constitution of the union and the mode in which the union is being carried on, that the principal objects of the union are statutory objects, and that the union is actually carried on for those objects, shall grant such a certificate, but the Registrar may, on the application made by any person to him for the purpose, withdraw any such certificate if satisfied, after giving the union an opportunity of being heard, that the certificate is no longer justified.

(4) Any person aggrieved by any refusal of the Registrar to register a combination as a trade union, or to give a certificate that an unregistered trade union is a trade union within the meaning of this Act, or by the withdrawal under this sec-

tion of a certificate of registration, or of a certificate that an unregistered union is a trade union within the meaning of this Act, may appeal to the High Court, or in Scotland to the Court of Session, within the time and in the manner and on the conditions directed by rules of court.

(5) A certificate of the Registrar that a trade union is a trade union within the meaning of this Act shall, so long as it is in force, be conclusive for all purposes.

3. Restriction on application of funds for certain political purposes.] (1) The funds of a trade union shall not be applied, either directly or in conjunction with any other trade union, association, or body, or otherwise indirectly, in the furtherance of the political objects to which this section applies (without prejudice to the furtherance of any other political objects), unless the furtherance of those objects has been approved as an object of the union by a resolution for the time being in force passed on a ballot of the members of the union taken in accordance with this Act for the purpose by a majority of the members voting; and where such a resolution is in force, unless rules, to be approved, whether the union is registered or not, by the Registrar of Friendly Societies, are in force providing—

- (a) That any payments in the furtherance of those objects are to be made out of a separate fund (in this Act referred to as the political fund of the union), and for the exemption in accordance with this Act of any member of the union from any obligation to contribute to such a fund if he gives notice in accordance with this Act that he objects to contribute; and
- (b) That a member who is exempt from the obligation to contribute to the political fund of the union shall not be excluded from any benefits of the union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the union (except in relation to the control or management of the political fund) by reason of his being so exempt, and that contribution to the political fund of the union shall not be made a condition for admission to the union.

(2) If any member of a trade union alleges that he is aggrieved by a breach of any rule made in pursuance of this section, he may complain to the Registrar of Friendly Societies, and the Registrar of Friendly Societies, after giving the complainant and any representative of the union an opportunity of being heard, may, if he considers that such a breach has been committed, make such order for remedying the breach as he thinks just under the circumstances; and any such order of the Registrar shall be binding and conclusive on all parties without appeal and shall not be removable into any court of law or restrainable by injunction, and on being recorded in the county court, may be enforced as if it had been an order of the county court. In the application of this provision to Scotland the sheriff court shall be substituted for the county court, and "interdict" shall be substituted for "injunction."

(3) The political objects to which this section applies are the expenditure of money—

- (a) on the payment of any expenses incurred either directly or indirectly by a candidate or prospective candidate for election to Parliament or to any public office, before, during, or after the election in connection with his candidature or election; or
- (b) on the holding of any meeting or the distribution of any literature or documents in support of any such candidate or prospective candidate; or
- (c) on the maintenance of any person who is a member of Parliament or who holds a public office; or
- (d) in connection with the registration of electors or the selection of a candidate for Parliament or any public office; or
- (e) on the holding of political meetings of any kind, or on the distribution of political literature or political documents of any

kind, unless the main purpose of the meetings or of the distribution of the literature or documents is the furtherance of statutory objects within the meaning of this Act.

The expression "public office" in this section means the office of member of any county, county borough, district, or parish council, or board of guardians, or of any public body who have power to raise money, either directly or indirectly, by means of a rate.

(4) A resolution under this section approving political objects as an object of the union shall take effect as if it were a rule of the union and may be rescinded in the same manner and subject to the same provisions as such a rule.

(5) The provisions of this Act as to the application of the funds of a union for political purposes shall apply to a union which is in whole or in part an association or combination of other unions as if the individual members of the component unions were the members of that union and not the unions; but nothing in this Act shall prevent any such component union from collecting from any of their members who are not exempt on behalf of the association or combination any contributions to the political fund of the association or combination.

4. Approval of rules.] (1) A ballot for the purposes of this Act shall be taken in accordance with rules of the union to be approved for the purpose, whether the union is registered or not, by the Registrar of Friendly Societies, but the Registrar of Friendly Societies shall not approve any such rules unless he is satisfied that every member has an equal right, and, if reasonably possible, a fair opportunity of voting, and that the secret of the ballot is properly secured.

(2) If the Registrar of Friendly Societies is satisfied, and certifies that rules for the purpose of a ballot under this Act or rules made for other purposes of the Act which require approval by the Registrar have been approved by a majority of members of a trade union, whether registered or not, voting for the purpose, or by a majority of delegates of such a trade union voting at a meeting called for the purpose, those rules shall have effect as rules of the union, notwithstanding that the provisions of the rules of the union as to the alteration of rules or the making of new rules have not been complied with.

5. Notice of objection to contribute towards political objects.] (1) A member of a trade union may at any time give notice, in the form set out in the Schedule of this Act or in a form to the like effect, that he objects to contribute to the political fund of the union, and, on the adoption of a resolution of the union approving the furtherance of political objects as an object of the union, notice shall be given to the members of the union acquainting them that each member has a right to be exempt from contributing to the political fund of the union, and that a form of exemption notice can be obtained by or on behalf of a member either by application at or by post from the head office or any branch office of the union or the office of the Registrar of Friendly Societies.

Any such notice to members of the union shall be given in accordance with rules of the union approved for the purpose by the Registrar of Friendly Societies, having regard in each case to the existing practice and to the character of the union.

(2) On giving notice in accordance with this Act of his objection to contribute, a member of the union shall be exempt, so long as his notice is not withdrawn, from contributing to the political fund of the union as from the first day of January next after the notice is given, or, in the case of a notice given within one month after the notice given to members under this section on the adoption of a resolution approving the furtherance of political objects, as from the date on which the member's notice is given.

6. Mode of giving effect to exemption from contributions to political fund.] Effect may be given to the exemption of members to contribute to the political fund of a union either by a separate levy of contributions to that fund from the

members of the union who are not exempt, and in that case the rules shall provide that no moneys of the union other than the amount raised by such separate levy shall be carried to that fund, or by relieving any members who are exempt from the payment of the whole or any part of any periodical contributions required from the members of the union towards the expenses of the union, and in that case the rules shall provide that the relief shall be given, as far as possible, to all members who are exempt on the occasion of the same periodical payment, and for enabling each member of the union to know as respects any such periodical contribution what portion, if any, of the sum payable by him is a contribution to the political fund of the union.

7. Definition of Registrar of Friendly Societies.—[The Registrar of Friendly Societies means in relation to a registered trade union whose registered office, or an unregistered trade union whose principal office, is situated in England or Wales, the Chief Registrar of Friendly Societies, and in relation to a registered trade union whose registered office, or an unregistered trade union whose principal office, is situated in Scotland or Ireland, the Assistant Registrar of Friendly Societies for Scotland or Ireland respectively.

B. Short title and construction.—[This Act may be cited as the Trade Union Act, 1913, and shall be construed as one with the Trade Union Acts, 1871 and 1876; and this Act and the Trade Union Acts, 1871 and 1906, may be cited together as the Trade Union Acts, 1871 and 1913.

SCHEDULE.

[Section 5.]

FORM OF EXEMPTION NOTICE.

Name of Trade Union

POLITICAL FUND (EXEMPTION NOTICE).

I hereby give notice that I object to contribute to the Political Fund of the Union, and am in consequence exempt, in manner provided by the Trade Union Act, 1913, from contributing to that fund.

A.B.

Address

day of

19 .

CHAPTER 31.

[PILOTAGE ACT, 1913.]

An Act to consolidate and amend the Law relating to Pilotage.

[7th March 1913.

Be it enacted, &c.:

PART I.—REVISION OF PILOTAGE ORGANISATION.

1. Improvement of pilotage organisation.—[The Board of Trade shall take steps to obtain information with respect to pilotage organisation at the various ports in the United Kingdom, and, by the exercise of their powers under this Act to make Pilotage Orders, shall carry into effect any re-organisation or improvement of organisation which the Board may consider necessary or expedient at any port, and shall also at any port deal by Pilotage Order with any Act, order, charter, custom, bylaw, regulation, or provision in force at the port with a view to rendering the law relating to pilotage at the various ports in the United Kingdom accessible and, so far as possible, uniform.

2. Recommendations with respect to pilotage bylaws.—[1) The Board of Trade shall also take steps to obtain information with respect to the bylaws as to pilotage in force at the various ports in the United Kingdom, and, after consulting with the pilotage authority at the port and considering any bylaws proposed by that authority, shall, when necessary or expedient and with a view to securing, so far as practicable, uniformity of administration and to carrying out any changes consequent on the passing of this Act, make recommendations for the substitution of new bylaws for those in force at the port, or in case there are no such bylaws in force, for the making of such bylaws as may be required at the port.

(2) If a pilotage authority fail to submit bylaws in accordance with the recommendations for

confirmation by the Board of Trade under this Act, the Board may treat the byelaws recommended by the Board as if they were byelaws submitted to them by the pilotage authority for confirmation, and those byelaws, when confirmed by the Board of Trade in accordance with this Act, shall have the same effect as if they had been so submitted.

3. Commissioners for the purpose of Part I.—(1) The Board of Trade shall appoint such persons as they think fit to act as Commissioners for the purposes of this Act, but the appointment of any person appointed to be a Commissioner under this section shall not have effect beyond the first day of January nineteen hundred and seventeen, or such date, not being more than five years later, as the Board of Trade, with the approval of the Treasury, may determine.

(2) The Board of Trade may appoint and employ such officers or other persons as they think fit to assist any persons acting as Commissioners in the execution of their duties under this Act.

(3) The salaries and remuneration of any persons acting as Commissioners and of any persons so appointed or employed shall be determined by the Board of Trade with the approval of the Treasury, and any such salaries and remuneration, and all expenses incurred by the Board of Trade in the execution of this Act, shall be paid out of moneys provided by Parliament.

4. Schemes for reorganisation of pilotage at ports.—(1) With a view to the preparation of schemes for the reorganisation or improvement of organisation of pilotage, the Board of Trade shall cause local inquiries to be held by any persons acting as Commissioners under this Act at the various ports of the United Kingdom, except in cases where the pilotage authority of the port has submitted, in accordance with this Act, a scheme for the purpose to the Board of Trade, and the Board of Trade are satisfied that the scheme so submitted, with such modifications (if any) as may be made by the Board, is adequate for the purpose, or the pilotage authority have satisfied the Board of Trade that no scheme for the reorganisation or improvement of organisation of pilotage at the port is necessary or expedient. Any such local inquiry may, if the Board think it necessary or desirable, include an inquiry into the byelaws in force at the port where the inquiry is held, and into the operation of those byelaws.

(2) Where any such inquiry is held at any port, the person holding the inquiry shall make a report to the Board of Trade recommending to the Board a scheme for the purpose of the reorganisation or improvement of organisation of pilotage at the port, or if a scheme has been submitted by the pilotage authority, recommending any amendments which it appears expedient to make in the scheme so submitted.

(3) The Board of Trade may, in any case they think fit, group ports for the purpose of any such local inquiry, and in that case the ports so grouped shall be dealt with at the same inquiry.

(4) Any pilotage authority may, within three months after the passing of this Act, give notice to the Board of Trade of their intention to submit a scheme to the Board for the purpose of the reorganisation or improvement of organisation of pilotage at their port, and shall in such a case also give such public notice of their intention as the Board may require, and if such a scheme is so submitted to the Board within nine months after the passing of this Act, the scheme shall be treated as a scheme submitted to the Board in accordance with this Act.

5. Provision as to local inquiries.—(1) Notice of any local inquiry to be held under this Part of this Act shall be given and published in such manner as the Board of Trade think best fitted for giving information of the time and place of the inquiry to those concerned, and all persons interested shall be permitted to attend and make representations.

(2) Any person holding a local inquiry shall have power, by summons signed by him, to require the attendance of all such persons as he thinks fit to call and examine for the purpose of the inquiry, and shall have power to require the

production of all books, papers, and documents which he considers important for that purpose.

(3) Any persons attending as witnesses at any such local inquiry shall be allowed such expenses as would be allowed to witnesses attending before a court of record, or in Scotland before the Court of Sessions, and in case of dispute as to the amount to be allowed, the dispute shall be referred by any person holding the local inquiry to a master or district registrar of the supreme court, or in Scotland to the auditor of accounts in the Court of Session, who on request signed by him shall ascertain and certify the proper amount of the expenses.

(4) If any person without reasonable excuse, the proof whereof shall lie on him, fails to comply with any summons or requisition of a person holding a local inquiry under this section, or impedes a person holding a local inquiry in the execution of his duty, he shall be liable on summary conviction in respect of each offence to a fine not exceeding five pounds, and, in addition, to a fine not exceeding one pound for every day during which the offence continues.

6. Consultation with pilots as to byelaws and schemes.—[The Board of Trade, before making recommendations to a pilotage authority under this Act for the substitution of new byelaws for those in force in any port, and a pilotage authority, before submitting any scheme to the Board for the reorganisation or improvement of organisation of pilotage at their port shall, unless pilots are directly represented on the authority or on a pilotage committee of the authority, take steps to ascertain the opinion of the pilots at the port with respect to the matter in question.

PART II.

GENERAL PILOTAGE LAW.

Pilotage Orders.

7. Power of Board of Trade to make pilotage orders.—(1) The Board of Trade may, by Order made under this Act (in this Act referred to as a Pilotage Order)—

- (a) make such rearrangement of pilotage districts and pilotage authorities as the Board think necessary or expedient; and
- (b) establish new pilotage districts and new pilotage authorities and abolish existing pilotage districts and existing pilotage authorities in cases where it appears to the Board necessary or expedient; and
- (c) define the limits of pilotage districts, distinguishing as respects any pilotage district in part of which pilotage is compulsory and in part of which pilotage is not compulsory, the part of the district in which pilotage is compulsory; and
- (d) provide for the incorporation of any pilotage authority, and make such alteration in the constitution of any pilotage authority with reference to their powers and duties as pilotage authority, and such provisions as to the appointment of committees (including, if it is thought fit, persons not members of the authority), and as to the relations between the authority and the committee, as the Board think necessary or expedient; and
- (e) empower a pilotage authority to delegate to a committee thereof any of its powers and duties, and provide, if it seems necessary or desirable, that the decisions of the committee on questions so delegated shall not require confirmation by the pilotage authority; and
- (f) make such provision for the direct representation of pilots and shipowners on any pilotage authority or committee of a pilotage authority as the Board think necessary or expedient; and
- (g) in cases where a pilotage authority have powers and duties as to other matters as well as pilotage, provide for their accounts as pilotage authority being kept separate from their accounts in relation to other matters; and
- (h) provide that pilotage shall be compulsory in any area where it has previously

not been compulsory, or provide, in connection with any rearrangement of a pilotage district, that pilotage shall be non-compulsory in any area where it has been compulsory, subject to provision being also made for the payment of compensation to the pilots concerned for any loss or damage which may be incurred by them in consequence of such rearrangement; and

- (i) authorise, where it appears expedient, any pilotage authority to make byelaws providing for the grant of certificates (in this Act referred to as deep sea certificates) certifying that persons are qualified to act as pilots of ships for any part of the sea or channels outside the district of any pilotage authority, so, however, that a pilot holding such a certificate shall not be entitled to supersede any other person as pilot of a ship; and
- (j) provide that any Act (other than this Act), order, charter, custom, bylaw, regulation, or provision shall, so far as it relates to pilotage, cease to have effect within any pilotage district or as respects any pilotage authority, but may re-enact the whole or any part thereof so far as is not inconsistent with the provisions of this Act; and
- (k) provide for compensation being paid to any pilot for any loss or damage which may be incurred by them in consequence of any Order abolishing or rearranging any pilotage districts; and
- (l) make any provisions which appear necessary or expedient for the purpose of giving full effect to the Order.

(2) Provision shall be made by Pilotage Order for the direct representation of pilots either on the pilotage authority or on the committee of the pilotage authority of any district where there are not less than six licensed pilots if a majority of the pilots licensed for the district signify in writing to the Board of Trade that they desire such representation, and, where such provision is made, provision shall also be made for the representation of shipowners on the authority or committee, as the case may be.

(3) A Pilotage Order establishing a pilotage authority for any pilotage district shall provide for the representation on the pilotage authority of any dock or harbour authority having jurisdiction within the district which was represented on the pilotage authority for the district at the time of the passing of this Act, and which desires to be so represented.

(4) A Pilotage Order shall not be made by the Board of Trade, except—

- (a) for any of the purposes of Part I. of this Act; or
- (b) on the application in writing of any person interested in the pilotage of any pilotage district or in the operation of the laws relating to pilotage in that district or the administration of those laws.

(5) A Pilotage Order shall require confirmation by Parliament—

- (a) if it is an Order made for any of the purposes of Part I. of this Act; and
- (b) if, whatever the purpose for which it is made, a petition is presented to the Board of Trade against the Order by any person appearing to the Board of Trade to be interested in the administration of pilotage in the district within six weeks after the Order is published and the petition is not withdrawn.

(6) A Pilotage Order which does not require confirmation by Parliament shall have effect as if enacted in this Act.

(7) The provisions contained in the First Schedule to this Act shall have effect with respect to Pilotage Orders.

Pilotage Districts and Authorities.

8. Pilotage districts and pilotage authorities.]—(1) For the purposes of this Act the districts established as pilotage districts under Pilotage Orders made under this Act shall be pilotage districts, and the pilotage authorities shall be the

pilotage authorities as constituted by Pilotage Orders made under this Act.

(2) Until otherwise provided by Pilotage Order made under this Act, every pilotage district which is, at the time of the passing of this Act, a pilotage district shall continue to be a pilotage district, and every pilotage authority which is a pilotage authority at the time of the passing of this Act shall continue to be a pilotage authority.

Advisory Committee.

9. Power to appoint advisory committee.]—(1) The Board of Trade may appoint an advisory committee for the purpose of advising them with reference to the exercise of their powers or the performance of their duties under this Act, consisting of such persons as they may appoint, being pilots, shipowners, representatives of pilotage authorities, representatives of dock and harbour authorities, or other persons representing the interests principally affected, or having special knowledge of the subject-matter.

(2) There shall be paid to the members of any such committee out of moneys provided by Parliament such allowances and expenses as the Board of Trade may fix with the consent of the Treasury.

Compulsory Pilotage.

10. Continuation of existing compulsory districts and abolition of existing exemptions.]—(1) Subject to the provisions of any Pilotage Order, pilotage shall continue to be compulsory in every pilotage district in which it was compulsory at the time of the passing of this Act, and shall continue not to be compulsory in every pilotage district in which it was not compulsory at the time of the passing of this Act, and subject to the provisions of this Act all exemptions from compulsory pilotage in force at the date of the passing of this Act shall cease to have effect.

(2) Any reference in this Act to a pilotage district in which pilotage is compulsory shall, in the case of a district in which pilotage is compulsory only in part of the district, be construed, if the context so requires, as a reference to that part of the district only.

11. Obligations where pilotage is compulsory.]—(1) Every ship (other than an excepted ship) while navigating in a pilotage district in which pilotage is compulsory for the purpose of entering, leaving, or making use of any port in the district, and every ship carrying passengers (other than an excepted ship) while navigating for any such purpose as aforesaid in any pilotage district (whether pilotage is compulsory or not compulsory in that district) shall be either—

- (a) under the pilotage of a licensed pilot of the district; or
- (b) under the pilotage of a master or mate possessing a pilotage certificate for the district who is bona fide acting as master or mate of the ship.

(2) If any ship (other than an excepted ship) in circumstances in which pilotage is compulsory under this section, is not under pilotage as required by this section, after a licensed pilot of the district has offered to take charge of the ship, the master of that ship shall be liable in respect of each offence to a fine not exceeding double the amount of the pilotage dues that could be demanded for the conduct of the ship.

(3) For the purposes of this Act the following ships are excepted ships:—

- (a) Ships belonging to His Majesty;
- (b) Pleasure yachts;
- (c) Fishing vessels;
- (d) Ferry boats plying as such exclusively within the limits of a harbour authority;
- (e) Ships of less than fifty tons gross tonnage;
- (f) Ships exempted from compulsory pilotage by bylaw as hereinafter provided in this section.

(4) A pilotage authority may by bylaw made under this Act exempt from compulsory pilotage in their district any of the following classes of ships, if not carrying passengers, up to such limit of gross tonnage in each case as may be fixed by the bylaw, that is to say:—

- (i) ships trading coastwise;

- (ii) Home trade ships trading otherwise than coastwise;
- (iii) Ships whose ordinary course of navigation does not extend beyond the seaward limits of a harbour authority, whilst navigating within those limits or within such parts thereof as may be specified in the bylaw.

Provided that, if any such bylaw appears to the Board of Trade to exempt from compulsory pilotage ships of any class or description which were not at the date of the passing of this Act in practice exempted in the district to which the bylaw relates, the Board shall not confirm the bylaw, but may, if they think fit, submit to Parliament a Bill confirming the bylaw with or without modifications, and such Bill shall be treated as if it were a Bill confirming a Pilotage Order, and the provisions of this Act with respect to such Bills shall apply accordingly.

(5) For the purposes of this section, a ship which habitually trades to or from any port or ports outside the British Islands shall not be deemed to be trading coastwise, and a ship which habitually trades to or from any port outside the home trade limits shall not be deemed to be a home trade ship, by reason only that she is for the time being engaged on a voyage between ports in the British Islands, or within the home trade limits, as the case may be.

12. Exemption from compulsory pilotage of ships belonging to certain public authorities.] The provisions of this Act with respect to compulsory pilotage shall not apply to tugs, dredgers, sludge-vessels, barges, and other similar craft—

- (a) belonging to or hired by a dock, harbour or river authority whilst employed in the exercise of the statutory powers or duties of the authority and navigating within any pilotage district which includes within its limits the whole or any part of the area of the authority; or
- (b) belonging to a local authority whilst employed in the exercise of the statutory powers or duties of the authority and navigating within the pilotage district within which the port to which they belong is situate:

Provided that, where in any pilotage district any of the classes of vessels aforesaid were at the time of the passing of this Act in practice subject to compulsory pilotage, the pilotage authority may by bylaw provide that any of such classes of vessels shall continue to be so subject.

13. Provision with respect to ships calling at a port for the purpose only of taking pilot.] A ship calling at a port in a pilotage district for the purpose only of taking on board or landing a pilot belonging to some other pilotage district shall not, for the purpose of the provisions of this Act relating to compulsory pilotage, be deemed to be navigating in the first-mentioned district for the purpose of entering, leaving, or making use of that port.

14. Provision against extension of defence of compulsory pilotage.] Notwithstanding anything in any Pilotage Order made under this Act, any area in which pilotage was not compulsory at the date of the passing of this Act shall be deemed to be an area in which pilotage is not compulsory for the purpose of determining the liability of the owner or master of a ship being navigated in the area for any loss or damage occasioned by or arising out of the navigation of such ship.

15. Liability of owner or master in the case of a vessel under pilotage.]—(1) Notwithstanding anything in any public or local Act, the owner or master of a vessel navigating under circumstances in which pilotage is compulsory shall be answerable for any loss or damage caused by the vessel or by any fault of the navigation of the vessel in the same manner as he would if pilotage were not compulsory.

(2) This section shall not take effect until the first day of January, nineteen hundred and eighteen, or such earlier date as His Majesty may fix by Order in Council, certifying that it is necessary to bring the section into operation in order to enable His Majesty to comply with an international convention.

(3) As from the date of the coming into operation of this section, section six hundred and thirty-three of the Merchant Shipping Act, 1894 [57 & 58 Vict. c. 60], shall cease to have effect.

Power of Pilotage Authorities to License Pilots and make Byelaws.

16. *Powers of pilotage authorities to license pilots for their district.* Subject to the provisions of this Act, a pilotage authority may license pilots for their district, and do all such things as may be necessary or expedient for carrying into effect their powers and duties.

17. *Power of pilotage authorities to make byelaws.*—(1) A pilotage authority may by byelaws made under this Act—

- (a) determine the qualification in respect of age, physical fitness, time of service, local knowledge, skill, character, and otherwise to be required from persons applying to be licensed by them as pilots, provide for the examination of such persons, and fix the term for which a licence is to be in force, and the conditions under which a licence may be renewed; and
- (b) fix the limit (if any) on the number of pilots to be licensed, and provide for the method in which and the conditions under which the list of pilots is to be filled up; and
- (c) provide generally for the good government of pilots licensed by the authority, and of apprentices, and in particular for ensuring their good conduct and constant attendance to and effectual performance of their duties, whether at sea or on shore; and
- (d) determine the system to be adopted with respect to the supply and employment of pilots, and provide, so far as necessary, for the approval, licensing, and working of pilot boats in the district, and for the establishment and regulation of pilot boat companies; and
- (e) provide for the punishment of any breach of any byelaw made by them for the good government of pilots or apprentices by the infliction of fines not exceeding twenty pounds (to be recoverable as fines are recoverable under the Merchant Shipping Acts, 1894 to 1907), without prejudice to their powers under this Act to revoke or suspend the licence in the case of any such breach of byelaw; and
- (f) fix for the district the rates of payments to be made in respect of the services of a licensed pilot (in this Act referred to as pilotage dues), and define the circumstances and conditions under which pilotage dues may be payable on different scales and provide for the collection and distribution of pilotage dues; and
- (g) if and so far as it appears to the authority to be generally desired by the pilots concerned, provide for the pooling of pilotage dues earned by the licensed pilots or by any class of pilots in the district; and
- (h) provide for a deduction being made from any sums received by pilots of any sums required for meeting the administrative expenses of the authority, or any contributions required for any fund established for the payment of pensions or other benefits to pilots, their widows or children (in this Act referred to as a pilots' benefit fund); and
- (i) provide, if and so far as it appears to the authority to be generally desired by the pilots, for bonds (the penalty of which shall not in any case exceed one hundred pounds) being given by pilots for the purpose of the provisions of this Act limiting pilots' liability; and
- (j) establish, either alone or in conjunction with any other pilotage authority, pilots' benefit funds, and provide for the direct payment to any such fund of any contributions by pilots towards the fund, or of any part of the ordinary receipts of the

pilotage authority, and also for the administration of any such fund and for the conditions of participation in any such fund; and

- (k) provide for the method of conducting the examination of masters and mates applying for pilotage certificates so as to maintain a proper standard of efficiency; and
- (l) prohibit the grant of pilotage certificates to masters or mates who do not hold at least a mate's certificate of competency recognised under Part II. of the Merchant Shipping Act, 1894; and
- (m) provide that a pilotage certificate shall not be renewed without re-examination unless the master or mate has made not less than a specified number of visits to the port as master or mate of any ship in respect of which the certificate is granted; and
- (n) if the pilotage authority are an authority authorised to grant deep sea certificates by virtue of a Pilotage Order made with reference to that authority, provide for the grant of deep sea certificates; and
- (o) apply any byelaws made under this section for the good government of pilots and the punishment of any breach of any such byelaw, with any necessary modifications, to masters and mates holding pilotage certificates; and
- (p) require the owners of ships, whose masters or mates hold pilotage certificates, to contribute towards the pilot fund or account of the pilotage district, and require the holders of such certificates to make a periodical return to them of the pilotage services rendered by them; provided that the contribution so required from an owner shall not exceed such proportion of the pilotage dues which would have been payable in respect of the ship if the master or mate had not held a pilotage certificate, as may be fixed by the Board of Trade; and
- (q) provide for any matter for which provision is to be made or may be made under this Act by byelaw.

(2) A byelaw shall not take effect unless it has been submitted to the Board of Trade and confirmed by them with or without modifications.

(3) Notice of any byelaw proposed to be submitted for confirmation under this section shall, before it is so submitted, be published in such manner as the Board of Trade direct.

18. *Power of Board of Trade on representation to revoke or vary byelaws or require pilotage authority to make byelaws.*—(1) If at any port either—

- (a) a majority of the licensed pilots belonging to the port; or
- (b) any number of persons, not less than six, being masters, owners, or insurers of vessels using the port; or
- (c) a dock or harbour authority not being the pilotage authority;

object to any byelaw in force at the port, or desire that any byelaw should be in force at the port which is not in force therein, they may make a representation to the Board of Trade to that effect, and the Board of Trade, if the representation appears to them reasonable after giving the pilotage authority, and, if they think fit, any other persons, an opportunity of making representations on the subject, may, by order, revoke, vary, or add to any byelaw to which objection is made, or require the pilotage authority to submit to them for confirmation a byelaw for the purpose of giving effect to the representation.

(2) Any byelaw revoked by any such order shall cease to have effect, and any byelaw to which additions are made or which is varied or added to, shall have effect with the variations or additions made by the order.

(3) If a pilotage authority fail to submit to the Board of Trade for confirmation a byelaw in accordance with an order made under this section, the Board of Trade may treat the byelaw

which they have required the pilotage authority to submit to them as a byelaw submitted to them by the authority, and confirm it accordingly, and the byelaw so confirmed shall have effect as if it had been made and confirmed in accordance with this Act.

19. *Licensing of pilots by pilotage authority not to involve any liability.* The grant or renewal of a licence to a pilot by a pilotage authority under the powers given to them by this Act does not impose any liability on the authority for any loss occasioned by any act or default of the pilot.

20. *Form of pilot's licence, and production and return of pilot's licence to pilotage authority.*—(1) A pilot's licence shall be in a form approved for the time being by the Board of Trade.

(2) A licensed pilot shall, when required by the pilotage authority by whom the licence has been granted, produce his licence to the authority, and, in case his licence is revoked or suspended, shall deliver up his licence to the authority.

(3) On the death of a licensed pilot, the person into whose hands his licence comes shall without delay transmit it to the pilotage authority by whom it was granted.

(4) If any licensed pilot or other person fails to comply with the requirements of this section, he shall be liable in respect of each offence to a fine not exceeding ten pounds.

21. *Receipts and expenses of pilotage authority.*—(1) All receipts of a pilotage authority in their capacity as such (other than any money received by them on behalf of and paid over to any pilot, or if the authority administer a pilots' benefit fund, any sums received by them as direct payments for that fund), shall be paid into a separate fund or account, to be called the pilot fund or account of the pilotage district.

(2) All expenses incurred by a pilotage authority in the exercise of their powers or performance of their duties as such authority shall be paid out of their pilot fund or account, and, except so far as may be provided to the contrary by byelaw, subject to the payment of those expenses, the balance shall in each year be applied for the purposes of any pilots' benefit fund established in the district, and so far as not required for that purpose shall be applied for the benefit of pilots in such manner as may be determined by the pilotage authority with the approval of the Board of Trade.

(3) A separate account shall be kept by any pilotage authority who administer a pilots' benefit fund of all moneys received by them as payments to that fund, or for the benefit of that fund, and money standing to the credit of that account shall not be applicable to any purpose other than the purposes of the fund.

(4) Nothing in this section shall prevent a pilotage authority which owns or hires the pilot boats for the district from keeping a separate account in respect of such boats.

22. *Returns to be furnished and statements of accounts to be sent to Board of Trade by pilotage authorities.*—(1) Every pilotage authority shall deliver triennially, or, if the Board of Trade so direct, at shorter intervals, to the Board, in the form and at the time required by the Board, returns giving such particulars as the Board may by order prescribe with respect to pilotage in their district, and any returns so delivered shall, as soon as may be, be laid before both Houses of Parliament.

(2) Every pilotage authority shall in addition furnish annually to the Board of Trade, at such time as the Board direct, a statement of their accounts in the form prescribed by the Board, duly audited, including a statement of the average gross and net earnings of pilots during the past year, and, where the authority administer a pilots' benefit fund, the separate accounts of that fund, including particulars of the investments, if any.

(3) Every pilotage authority shall allow the Board of Trade, or any person appointed by the Board for the purpose, to inspect any books or documents in the possession of that authority

relating to any matter in respect of which a return is required to be delivered or a statement is required to be furnished under this section.

(4) If a pilotage authority refuse or fail without reasonable cause to deliver any return or furnish any statement to the Board of Trade in accordance with this section, His Majesty may by Order in Council suspend the pilotage authority for such time as His Majesty may direct, and thereupon the Board of Trade shall by order direct that, in the meantime, the powers of the authority shall be exercised, and the duties of the authority shall be performed, by such person as they may appoint for the purpose, and any such order shall take effect as if it were enacted in this Act.

Masters' and Mates' Certificates.

23. Grant of masters' and mates' certificates by pilotage authorities.—(1) A pilotage authority may grant a certificate (in this Act referred to as a pilotage certificate) to any person who is bona fide the master or mate of any ship if that person applies for such a certificate, and if, after examination, they are satisfied that, having regard to his skill, experience, and local knowledge, he is capable of piloting the ship of which he is master or mate within their district:

Provided that—

- (a) A pilotage certificate shall not be granted to the master or mate of a ship unless he is a British subject, except in the cases for which special provision is made by this Act; and
- (b) In any district where a byelaw is in force prohibiting the grant of pilotage certificates to masters or mates who do not hold at least mate's certificate of competency recognised under Part II. of the Merchant Shipping Act, 1894, the pilotage authority shall not grant a certificate except to a master or mate holding such a certificate of competency.

(2) A pilotage certificate shall be in a form approved for the time being by the Board of Trade, and shall contain (in addition to any other particulars which may be prescribed) the name of the person to whom the certificate is granted, the name and draught of water of the ship or ships in respect of which it is granted, the limits of the district in respect of which the certificate is granted, and the date on which it was granted.

(3) A pilotage certificate shall not be in force for more than a year from the date on which it is granted, but may be renewed annually by the pilotage authority, subject to the provisions of any byelaw made by that authority as to re-examination.

(4) A pilotage certificate may be granted so as to extend to more than one ship belonging to the same owner, while the master or mate is bona fide acting as master or mate of any such ship, provided that they are ships of substantially the same class.

(5) A pilotage authority may, on the application of the master or mate of a ship, alter his pilotage certificate so as to relate to any other ship or ships of a not substantially greater draught of water or tonnage than that to which the certificate formerly related, to which the master or mate may be transferred, or so as to cover any ships of substantially the same class and belonging to the same owner as the ships to which the certificate already relates.

(6) A pilotage authority may, for the purposes of this section, treat ships which are shown to their satisfaction to be bona fide under the management of the same person as manager, managing owner, demisees, or time charterer, as being ships owned by that person.

24. Power to grant certificate to a master or mate, not being a British subject, under special circumstances.—(1) Notwithstanding anything in this Act, the provisions of this Act as to the renewal of a pilotage certificate shall apply, with respect to the renewal of a pilotage certificate granted before the first day of June nineteen hundred and six, to a master or mate who is not a British subject in the same manner as they apply to a pilotage certificate granted to a master or mate who is a British subject.

(2) If any master or mate who is not a British

subject shows to the satisfaction of the Board of Trade that he is the master or mate of a ship which is of substantially the same class, and is trading regularly between the same ports as a foreign ship which, on the first day of June nineteen hundred and six, was exempt from the obligation to carry a licensed pilot, or had habitually been piloted by a master or mate of the ship who held a pilotage certificate, the Board of Trade may authorise the master or mate to apply to the pilotage authority for a pilotage certificate under this Act, and the provisions of this Act as to the granting of a pilotage certificate shall, notwithstanding anything in this Act, extend to a master or mate so applying for a certificate, although he is not a British subject, as they extend to a master or mate who is a British subject:

Provided that if the Admiralty at any time consider that, on the grounds of public safety, the provisions of this sub-section should not be applicable with respect to any pilotage district or part of a pilotage district, they may make an order excluding that district or part of a district from the operation of those provisions; and while any such order is in force with respect to any such district or part of a district, a certificate granted under those provisions shall not be of any effect within that district or part of a district.

25. Provision with respect to foreign certificates of competency.—For the purposes of this Act, references to certificates of competency recognised under Part II. of the Merchant Shipping Act, 1894, shall be deemed to include references to any certificate of competency granted by the government of a foreign country, being a certificate of a class approved by the Board of Trade for the purpose.

Supplementary Provisions as to Licences and Certificates.

26. Suspension or revocation of a pilot's licence or a pilotage certificate.—A pilotage authority may suspend or revoke any pilot's licence or any pilotage certificate granted by them if it appears to them, after giving the holder thereof an opportunity of being heard, that he has been guilty of any offence under this Act or of any breach of any byelaw made by the authority, or of any other misconduct affecting his capability as a pilot, or that he has failed in or neglected his duty as a pilot, or that he has become incompetent to act as pilot; and a licence or certificate, if so revoked, shall cease to have effect, and, if so suspended, shall cease to have effect for the period for which it is suspended:

Provided that in any case where pilots are directly represented on a committee of a pilotage authority, that committee may, until a Pilotage Order is made regulating the relations between the authority and the committee, exercise the powers conferred on a pilotage authority by this section with respect to pilots' licences as though they were the pilotage authority.

27. Appeal by pilot, master, or mate, against action of pilotage authority with respect to pilot's licence or pilotage certificate.—(1) If a complaint is made to the Board of Trade that a pilotage authority have—

- (a) without reasonable cause refused or failed to examine any candidate for a pilot's licence, or a master or mate for a pilotage certificate, or to grant such a licence or certificate after examination; or
- (b) conducted any examination for a pilot's licence or a pilotage certificate improperly or unfairly; or
- (c) imposed conditions on the granting of a pilot's licence or a pilotage certificate which they have no power to impose, or which are unreasonable; or
- (d) without reasonable cause refused or failed to renew a pilotage certificate, or having obtained possession of any such certificate, refused or failed to return it; or
- (e) without reasonable cause suspended or revoked a pilotage certificate; or
- (f) in any other manner failed properly to perform their duties under this Act with

respect to the matters above-mentioned in this section, or improperly exercised any of their powers under this Act with respect to those matters;

the Board of Trade shall consider the complaint, and, if they are of opinion that the complaint is in any respect well founded, shall make such order as they think fit for the purpose of redressing the matter complained of, and the pilotage authority shall give effect to any order so made by the Board of Trade.

(2) If a pilotage authority refuse or fail to give effect to any such order of the Board of Trade, the Board of Trade may, for the purpose of giving effect to the order, exercise any powers of the pilotage authority, and anything done by the Board of Trade in the exercise of those powers shall have the same effect as if it had been done by the pilotage authority.

28. Appeal by pilot against action of pilotage authority in suspending, etc., pilot's licence.

(1) If a pilot is aggrieved by the suspension or revocation by the pilotage authority of his licence, or by the refusal or failure of the pilotage authority to renew his licence, or by the refusal or failure of the pilotage authority who have obtained possession of his licence to return it to him, or by the imposition upon him by the pilotage authority of a fine exceeding two pounds, he may either appeal to a judge of county courts having jurisdiction within the port for which the pilot is licensed, or to a metropolitan police magistrate or stipendiary magistrate having jurisdiction within that port.

(2) For the purpose of hearing the appeal, the judge or magistrate shall sit with an assessor of nautical and pilotage experience selected and summoned by the judge or magistrate.

(3) Objection may be taken to any person proposed to be summoned as an assessor, either personally or in respect of his qualification, and by either party to the appeal.

(4) The judge or magistrate may confirm or reverse the suspension or revocation of the licence, or make such order in the case as may seem just, and his decision shall be final, unless special leave to appeal from the same to the High Court on a question of law or a question of mixed law and fact is given by the judge or magistrate, or by the High Court, and in such case the decision of the High Court shall be final.

(5) The costs incurred by a pilotage authority under this section shall be payable out of any fund applicable to the general expenses of the pilotage authority.

(6) Rules with respect to the procedure under this section (including costs and the remuneration of assessors) may be made, as respects county court judges, by the authority having power to make rules of practice under the County Courts Act, 1888 [51 & 52 Vict. c. 43], and as respects metropolitan police and stipendiary magistrates by a Secretary of State, but in either case with the concurrence of the Treasury as to fees.

(7) In Scotland the appeal under this section shall be to the sheriff having jurisdiction at the port where the decision is given, and may be heard by the sheriff sitting with an assessor as provided in this section, and rules may be made by the Court of Session by Acts of sederunt with respect to the procedure in case of those appeals in Scotland (including costs and the remuneration of assessors), subject to the concurrence of the Treasury as to fees. In the application of this section to Scotland, references to the Court of Session shall be substituted for references to the High Court.

(8) In the application of this section to Ireland—

- (a) The expression "judge of county courts" and "judge" shall respectively mean a county court judge and chairman of quarter sessions, and include recorder;
- (b) The expressions "stipendiary magistrate" and "magistrate" shall respectively mean a magistrate appointed under the Constabulary (Ireland) Act, 1836 [6 & 7 Will. 4. c. 13].
- (c) Rules with respect to the procedure in case of appeals under this section (including costs and the remuneration of assessors) may from time to time be

made, as respects county court judges and chairmen of quarter sessions, by the authority having power to make rules and orders for regulating the practice under the County Officers and Courts (Ireland) Act, 1877 [40 & 41 Vict. c. 56], and as respects stipendiary magistrates, by the Lord Lieutenant of Ireland in Council, but in either case with the concurrence of the Treasury as to the fees.

29. Fees in respect of pilots' licences and pilotage certificates.] Such fees shall be payable on the examination for a pilot's licence, or for a pilotage certificate, and on the grant, renewal, or alteration of any such licence or certificate, as may be fixed by bylaw made under this Act.

Rights and Obligations of Licensed Pilots.

30. Right of licensed pilot to supersede unlicensed persons.]—(1) A pilot licensed for a district may supersede any pilot not so licensed who is employed to pilot a ship in the district.

(2) Where a licensed pilot supersedes an unlicensed pilot the master of the ship shall pay to the latter a proportionate sum for his services, and shall be entitled to deduct the sum so paid from the sum payable in respect of the services of the licensed pilot.

Any question as to the proportion payable to the licensed pilot and to the person whom the licensed pilot has superseded shall be referred to the pilotage authority by whom the licensed pilot has been licensed, and their decision on the question shall be final.

(3) If in any pilotage district a pilot not licensed for the district pilots or attempts to pilot a ship after a pilot licensed for that district has offered to pilot the ship, he shall be liable in respect of each offence to a fine not exceeding fifty pounds.

(4) If the master of a ship knowingly employs or continues to employ a pilot not licensed for the district to pilot the ship within any pilotage district after a pilot licensed for that district has offered to pilot the ship, or, in the case of an outward-bound ship, without having taken reasonable steps (proof whereof shall lie on the master) to obtain a licensed pilot, he shall be liable in respect of each offence to a fine not exceeding fifty pounds.

(5) If any person other than the master or a seaman being *bona fide* one of the crew of the ship is on the bridge of a ship, or in any other position (whether on board the ship or elsewhere) from which the ship is navigated, that person shall, for the purposes of this section, be deemed to be piloting the ship unless the contrary is proved.

31. Declaration as to draught of ship.]—(1) A licensed pilot may require the master of any ship which he is piloting to declare her draught of water, length and beam, and the master shall comply with any such request.

(2) If the master of a ship refuses to comply with any such request of a pilot, or makes or is privy to any other person making any false statement to the pilot in answer to the request, he shall be liable in respect of each offence to a fine not exceeding fifty pounds.

32. Provision as to ships within a harbour, dock, &c.]—(1) A ship while being moved within a harbour which forms part of a pilotage district shall be deemed to be a ship navigating in a pilotage district, except so far as may be provided by bylaw in the case of ships being so moved for the purpose of changing from one mooring to another or of being taken in or out of any dock:

Provided that a bylaw shall in every case be made for the purpose aforesaid in any pilotage district where any class of persons other than licensed pilots were in practice employed at the date of the passing of this Act for the purpose of changing the moorings of ships or of taking ships into or out of dock.

(2) A ship whilst being navigated within any closed dock, lock, or other closed work in a pilotage district shall notwithstanding anything in this Act be deemed to be navigating in a district in which pilotage is not compulsory.

33. Copies of pilotage provisions to be furnished to pilots.]—(1) The pilotage authority

shall cause every pilot licensed by them to be furnished with a copy of this Act as amended for the time being, and with a copy of any Pilotage Order for the time being in force in the district, and of any bylaws so in force.

(2) A licensed pilot shall produce any copy so furnished to him to the master of any ship or other person employing him when required to do so, and if he fails without reasonable cause to do so, he shall be liable in respect of each offence to a fine not exceeding five pounds.

34.—Allowance to licensed pilot taken out of his district.]—(1) A master of a ship shall not, except under circumstances of unavoidable necessity, take a licensed pilot without his consent beyond the district for which he is licensed, or beyond the point up to which he has been engaged to pilot the ship, and if a master of a ship acts in contravention of this section, he shall be liable in respect of each offence to a fine not exceeding twenty pounds.

(2) Where a pilot is taken beyond the district for which he is licensed, or beyond the point up to which he has been engaged to pilot the ship, either without his consent or under circumstances of unavoidable necessity, he shall be entitled, over and above his pilotage dues, to maintenance and to the sum of ten shillings and sixpence a day, recoverable in the same manner as pilotage dues.

(3) The sum so to be paid shall be computed from and inclusive of the day on which the ship passes beyond the district for which the pilot is licensed, or the point up to which the pilot was engaged to pilot her, and up to and inclusive of either the day of his being returned in the said ship to the place where he was taken on board, or, if he is discharged from the ship at a distance from that place, such day as will allow him sufficient time to return thereto; and in the last-mentioned case he shall be entitled to his reasonable travelling expenses.

35. Limitation of pilots' liability where bond is given.]—(1) A licensed pilot, who has given a bond in conformity with bylaws made for the purpose under this Act, shall not be liable for neglect or want of skill beyond the penalty of the bond and the amount payable to him on account of pilotage in respect of the voyage in which he was engaged when he became so liable.

(2) Any bond given by a pilot in conformity with bylaws made for the purpose under this Act shall not be liable to stamp duty, and a pilot shall not be called upon to pay any expense in relation to the bond other than the actual expense of preparing the same.

(3) Where any proceedings are taken against a pilot for any neglect or want of skill in respect of which his liability is limited as provided by this section, and other claims are made or apprehended in respect of the same neglect or want of skill, the court in which the proceedings are taken may determine the amount of the pilot's liability, and, upon payment by the pilot of that amount into court, may distribute that amount rateably among the several claimants, and may stay any proceedings pending in any other court in relation to the same matter, and may proceed in such manner and subject to such regulations as to making persons interested parties to the proceedings, and as to the exclusion of any claimants who do not come in within a certain time, and as to requiring security from the pilot, and as to payment of any costs as the court thinks just.

36. Obligation on licensed pilot to produce his licence to employer.]—(1) Every licensed pilot when acting as such shall be provided with his licence, and shall, if requested, produce it to any person by whom he is employed, or to whom he offers his services as pilot.

(2) If a licensed pilot refuses to produce his licence in accordance with this section, he shall be liable, in respect of each offence, to a fine not exceeding ten pounds.

37. Penalty on fraudulent use of licence.] If any person not being a licensed pilot for a district falsely represents himself to be a licensed pilot for that district, either by means of using a licence which he is not entitled to use or by any other means, he shall be liable in respect of

each offence to a fine not exceeding twenty pounds.

Pilot Boats and Pilot Signals.

38. Approval of pilot boats.] All vessels regularly employed in the pilotage service of any pilotage district (in this Act referred to as "pilot boats") shall be approved and licensed by the pilotage authority of the district, and that authority may, at their discretion, appoint and remove the masters of those pilot boats.

39. Characteristics of pilot boats.]—(1) Every pilot boat shall be distinguished by the following characteristics, namely:—

(a) On her stern the name of her owner and the port to which she belongs, painted in white letters at least one inch broad and three inches long, and on each bow the number of her licence:

(b) In all other parts a black colour, painted or tarred outside, or such other colour or colours as the pilotage authority of the district, with the consent of the Board of Trade, direct:

(c) When afloat a flag (in this Act called a pilot flag) of large dimensions compared with the size of the pilot boat, and of two colours, the upper horizontal half white, and the lower horizontal half red, to be placed at the mast head, or on a sprit or staff, or in some equally conspicuous situation.

(2) It shall be the duty of the master of the pilot boat to see that the pilot boat possesses all the above characteristics, and that the pilot flag is kept clean and distinct, so as to be easily discerned at a reasonable distance; and also that the names and numbers aforesaid are not at any time concealed; and if a master fails, without reasonable cause, to comply with the requirements of this section, he shall be liable in respect of each offence to a fine not exceeding twenty pounds.

40. Pilotage order not to diminish powers of pilotage authorities as to pilot boats.] A Pilotage Order in dealing with any Act, order, charter, custom, bylaw, regulation, or provision shall not provide for abolishing or diminishing any power of a pilotage authority to acquire, own, hire, build, renew, maintain, or work pilot boats.

41. Display of pilot flag when pilot is on board ship.]—(1) When a ship is navigating in a pilotage district, and has on board a pilot licensed for that district, or a master or mate holding a pilotage certificate for that district, the master of the ship shall cause a pilot flag to be exhibited; and if he fails, without reasonable cause, to do so, he shall be liable in respect of each offence to a fine not exceeding fifty pounds.

42. Penalty on ordinary boat displaying pilot flag.] A pilot flag, or a flag so nearly resembling a pilot flag as to be likely to deceive, shall not be displayed on any ship or boat not having a licensed pilot or a master or mate holding a pilotage certificate on board, and, if any such flag is displayed on any such ship or boat, the master of that vessel shall, unless in the case of the display of a flag likely to deceive he proves that he had no intention to deceive, be liable for each offence to a fine not exceeding fifty pounds.

43. Obligation to display signal for pilot in certain circumstances.]—(1) The master of a ship (other than an excepted ship) shall when navigating in circumstances in which pilotage is compulsory under this Act, display a pilot signal, and keep the signal displayed until a licensed pilot comes on board.

(2) The master of a ship, whether navigating in circumstances in which pilotage is compulsory or not, which is being piloted in a pilotage district by a pilot not licensed for the district, shall display a pilot signal and keep the signal displayed until a licensed pilot comes on board.

(3) If the master of any ship fails to comply with this section, he shall be liable in respect of each offence to a fine not exceeding twenty pounds.

44. Facilities to be given for pilot getting on board ship.]—(1) The master of a ship (other than an excepted ship) which, in circumstances in

which pilotage is compulsory under this Act, is not under pilotage as required in these circumstances, shall, if a licensed pilot of the district makes a signal for the purpose of offering his services as pilot, by any practical means consistent with the safety of his ship, facilitate the pilot getting on board the ship, and shall give the charge of piloting the ship to that pilot, or, if there are two or more licensed pilots offering at the same time, to such one of them as may, according to any byelaw for the time being in force in the district, be entitled or required to take charge of the ship.

(2) Where the master of a ship, whether in circumstances in which pilotage is compulsory or not, accepts the services of a licensed pilot, he shall, by any practical means, consistent with the safety of his ship, facilitate the pilot getting on board the ship.

(3) If the master of any ship fails to comply with the provisions of this section, he shall be liable in respect of each offence to a fine not exceeding double the amount of pilotage dues that could be demanded for the conduct of the ship.

45. Signals to be displayed by ships requiring a pilot.—(1) His Majesty may by Order in Council make rules as to the signals to be used or displayed where the services of a pilot are required on any vessel, and those signals are in this Act referred to as pilot signals.

(2) If a vessel requires the services of a pilot, the master of that vessel shall use or display the pilot signals.

(3) If a master of a vessel uses or displays, or causes or permits any person under his authority to use or display, any of the pilot signals for any other purpose than that of summoning a pilot, or uses or causes or permits any person under his authority to use any other signal for a pilot, he shall be liable in respect of each offence to a fine not exceeding twenty pounds.

Offences by Pilots.

46. Penalty on pilot endangering ship, life, or limb.—If any pilot, when piloting a ship, by wilful breach of duty or by neglect of duty, or by reason of drunkenness—

- (a) does any act tending to the immediate loss, destruction, or serious damage of the ship, or tending immediately to endanger the life or limb of any person on board the ship; or
- (b) refuses or omits to do any lawful act proper and requisite to be done by him for preserving the ship from loss, destruction, or serious damage, or for preserving any person belonging to or on board the ship from danger to life or limb;

that pilot shall in respect of each offence be guilty of a misdemeanour.

47. Penalty on person obtaining charge of a ship by misrepresentation.—If any person, by wilful misrepresentation of circumstances upon which the safety of a ship may depend, obtains, or endeavours to obtain, the charge of that ship, that person and every person procuring, abetting, or conniving at the commission of the offence shall, in addition to any liability for damages, be liable in respect of each offence to a fine not exceeding one hundred pounds.

48.—Offences by pilots.—(1) If a licensed pilot, either within or without the district for which he is licensed,—

- (a) himself keeps, or is interested in keeping by any agent, servant, or other person, any premises licensed for the sale of intoxicating liquors, or sells or is interested in selling any intoxicating liquors, tobacco, or tea;
- (b) is in any way directly or indirectly concerned in any corrupt practices relating to ships, their tackle, furniture, cargoes, crews, or passengers, or to persons in distress at sea or by shipwreck, or to their moneys, goods, or chattels;
- (c) lends his licence;
- (d) acts as pilot whilst suspended;
- (e) acts as pilot when in a state of intoxication;

(f) employs, or causes to be employed, on board any ship which he is piloting any boat, anchor, cable, or other store, matter, or thing beyond what is necessary for the service of that ship, with intent to enhance the expenses of pilotage for his own gain or for the gain of any other person;

(g) refuses or wilfully delays, when not prevented by illness or other reasonable cause, to pilot any ship within the district for which he is licensed, upon the signal for a pilot being made by that ship, or upon being required to do so by the master, owner, agent, or consignee thereof, or by any officer of the pilotage authority by whom the pilot is licensed, or by any chief officer of Customs and Excise;

(h) unnecessarily cuts or slips, or causes to be cut or slipped, any cable belonging to any ship;

(i) refuses, otherwise than on reasonable ground of danger to the ship, when requested by the master, to conduct the ship which he is piloting into any port or place within the district for which he is licensed; or

(k) quits the ship, which he is piloting, before the service for which he was engaged has been performed and without the consent of the master of the ship;

that pilot shall, in addition to any liability for damages, be liable in respect of each offence to a fine not exceeding one hundred pounds.

(2) If any person procures, aids, abets, or connives at the commission of any offence under this section, he shall, in addition to any liability for damages, be liable to a fine not exceeding one hundred pounds.

(3) The provisions of the law relating to Customs with respect to the recovery of penalties under that law, and the application of such penalties, shall apply in the case of any prosecution by any officer of Customs and Excise for the recovery of a fine in respect of any offence against this section.

Recovery, &c., of Pilotage Dues.

49. Recovery of pilotage dues.—(1) The following persons shall be liable to pay pilotage dues for any ship for which the services of a licensed pilot are obtained, namely:—

- (a) the owner or master;
- (b) as to pilotage inwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port of her arrival or discharge;
- (c) as to pilotage outwards, such consignees or agents as have paid or made themselves liable to pay any other charge on account of the ship in the port of her departure;

and those dues may be recovered in the same manner as fines of like amount under the Merchant Shipping Act, 1894, but that recovery shall not take place until a previous demand has been made in writing.

(2) Any consignee or agent (not being the owner or master of the ship) who is hereby made liable for the payment of pilotage dues in respect of any ship may, out of any moneys received by him on account of that ship or belonging to the owner thereof, retain the amount of all dues paid by him, together with any reasonable expenses he may have incurred by reason of the payment of the dues or his liability to pay the dues.

50. Receiving or offering improper rates of pilotage.—A licensed pilot shall not demand or receive, and a master shall not offer or pay to any licensed pilot, dues in respect of pilotage services at any other rates, whether greater or less, than the rates which may be demanded by law, and, if a pilot or master acts in contravention of this enactment, he shall be liable in respect of each offence to a fine not exceeding ten pounds.

51. Pilotage rate for leading ships.—If any boat or ship, having on board a licensed pilot, leads any ship which has not a licensed pilot on board when the last-mentioned ship cannot, from particular circumstances, be boarded, the pilot so

leading the last-mentioned ship shall be entitled to the full pilotage rate for the distance run as if he had actually been on board and had charge of that ship.

Special Provisions as to the Trinity House.

52. Trinity House outport districts.—(1) For the purposes of this Act, any district which at the time of the passing of this Act is under the authority of sub-commissioners appointed by the Trinity House, and any pilotage district which may be declared after the passing of this Act to be a Trinity House outport district, shall be deemed to be a Trinity House outport district.

(2) The powers and duties of the Trinity House under this Act as the pilotage authority of an outport district shall be exercised and performed through a committee appointed for the district in such manner and subject to such conditions as may be determined by a Pilotage Order, under the name of Sub-Commissioners or such other name as may be fixed by the Order, and any such Order may be made so as to apply to all or any one or more of the outport districts.

53. Trinity House Pilot Fund.—Nothing in this Act shall oblige the Trinity House to maintain separate pilot funds for each of the pilotage districts of which they are the authority, and, if they maintain a single pilot fund for all those districts, the provisions of this Act as to pilot funds shall apply as if all the districts of which they are the pilotage authority were a single pilotage district.

54. Power of Trinity House to make provisions as to exempt pilots.—Notwithstanding anything in this Act, the Trinity House may permit any person who, at the date of the passing of this Act, was licensed to pilot an exempted vessel in the Thames or Medway, to continue to pilot any vessel in those rivers belonging to a class which, at the date of the passing of this Act, were exempted vessels, and were, in the opinion of the Trinity House, in practice piloted by such persons, and any such person while so acting shall be deemed, for the purposes of this Act, to be a licensed pilot.

55. Collection of pilotage dues in Port of London by officers of Customs and Excise.—(1) The following pilotage dues in respect of foreign ships, not being excepted ships, trading to and from the port of London, namely:—

- (a) as to ships inwards, the full amount of pilotage dues for the distance piloted; and
- (b) as to ships outwards, the full amount of dues for the distance required by law; shall be paid to the chief officer of Customs and Excise in the Port of London by the master, or by any consignees or agents of the ship who have paid, or made themselves liable to pay, any other charge for the ship in the Port of London.

(2) The chief officer of Customs and Excise, on receiving any pilotage dues in respect of foreign ships, shall give to the person paying the dues a receipt in writing for the dues, and in the Port of London the ship may be detained until the receipt is produced to the proper officer of Customs and Excise of the port.

(3) The chief officer of Customs and Excise shall pay over to the Trinity House the pilotage dues received by him under this section, and the Trinity House shall apply the dues so received—

- (a) in paying to any licensed pilot who produces to them sufficient proof of his having piloted the ship such dues as would have been payable to him for pilotage services if the ship had been a British ship, after making any deductions which they are authorised to make by byelaw under this Act; and
- (b) in paying to any person not being a licensed pilot who produces to them sufficient proof of his having, in the absence of a licensed pilot, piloted the ship, such amount as the Trinity House think proper, not exceeding the amount which would, under similar circumstances, have been payable to a licensed pilot after making the said deductions; and
- (c) in paying over to the Trinity House pilot

fund the residue, together with the amount of any deductions made as aforesaid.

(4) Nothing in this section shall affect the application of the provisions of this Act as to the recovery of pilotage dues.

Miscellaneous and General Provisions.

56. *Limit on expenditure.*] The expenditure under this Act out of money provided by Parliament shall not exceed six thousand pounds in any one year.

57. *Application of 37 & 38 Vict. c. 40.*] The Board of Trade Arbitrations, &c., Act, 1874, shall apply as if this Act were a special Act within the meaning of the first-mentioned Act.

58. *Saving for pilotage authorities having power to apply money received in name of pilotage to other purposes.*] Notwithstanding anything in this Act, where a pilotage authority is entitled by statute at the time of the passing of this Act to receive moneys in the name of pilotage and to apply part of such moneys to purposes other than those authorised under this Act, a Pilotage Order made under Part I. of this Act in respect of that authority may provide for the apportionment of the moneys so received as between the pilot fund or account and such other purposes.

59. *Commencement of Act.*] This Act shall (except as expressly provided) come into operation on the first day of April, nineteen hundred and thirteen : Provided that any enactment, order, charter, custom, bylaw, regulation, or provision with reference to pilotage affecting any pilotage district in particular, and in force at the time of the passing of this Act, including any exemptions from compulsory pilotage taking effect thereunder, shall remain in force notwithstanding anything in this Act or any repeal effected by this Act, until provision is made by Pilotage Order, or in the case of a bylaw by bylaw, made under this Act superseding any such enactment, order, charter, custom, bylaw, regulation, or provision.

60. *Repeal.*—(1) The enactments mentioned in the second schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

Provided that—

(a) Any Order in council, licence, certificate, bylaw, rule, or regulation made or granted under any enactment hereby repealed or in pursuance of any power which ceases in consequence of this Act, shall, subject to the provisions of this Act, continue in force as if it had been made or granted under this Act ; and

(b) Any officer appointed, any body elected or constituted, and any office established under any enactment hereby repealed shall continue and be deemed to have been appointed, elected, constituted, or established, as the case may be, under this Act;

(c) Any document referring to any Act or enactment hereby repealed shall be construed to refer to this Act or to the corresponding enactment of this Act.

(2) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section thirty-eight of the Interpretation Act, 1889 [52 & 53 Vict. c. 63] as regards the effect of repeals.

61. *Extent of Act.*] This Act extends to the United Kingdom and the Isle of Man, and applies to all ships, British and foreign.

62. *Short title.*] This Act may be cited as the Pilotage Act, 1913, and shall be construed as one with the Merchant Shipping Act, 1894, and the Acts amending the same ; and the Merchant Shipping Acts, 1894 to 1907, and this Act may be cited together as the Merchant Shipping Acts, 1894 to 1913.

SCHEDULES.

[Section 7.]

FIRST SCHEDULE.

PROVISIONS AS TO PILOTAGE ORDERS.

1. Subject to the provisions of this schedule, the Board of Trade may make rules in relation to applications for Pilotage Orders, and to the payments to be made in respect thereof, and to the publication of notices and advertisements, and the manner in which and the time within which representations or objections with reference to any application are to be made, and as to the publication of Pilotage Orders.

2. Notice of an application for an Order shall be published once at least in each of two successive weeks in the month immediately succeeding the date of the application in such manner as may be prescribed by the rules made by the Board of Trade.

3. The notice shall state the object which it is proposed to effect by the Order.

4. The Board of Trade on receiving any application for an Order shall refer the application to the pilotage authority of the district, if the authority are not themselves the applicants, and shall consider any objections which may be made to the proposed Order whether by the pilotage authority or by other persons appearing to the Board of Trade to be interested, and for that

purpose shall allow at least six weeks to elapse between the date on which the application is referred to the authority and that on which the Order is made.

5. The Board of Trade may submit to Parliament for confirmation any Order which requires confirmation by Parliament.

6. If and when a Bill confirming any such Order is pending in either House of Parliament, a petition is presented against any Order comprised therein, the Bill, so far as it relates to that Order, may be referred to a Select Committee, or, if the two Houses of Parliament think fit so to order, to a Joint Committee of those Houses, and the petitioner shall be allowed to appear and oppose as in the case of private Bills.

7. Any Act confirming an Order under this Act may be repealed, altered, or amended by any subsequent Order made under this Act.

8. The Board of Trade may revoke, either wholly or partially, any Order made by them before the Order is confirmed by Parliament, but such revocation shall not be made whilst the Bill confirming the Order is pending in either House of Parliament.

9. The making of an Order shall be prima facie evidence that all the requirements of this Act in respect of proceedings required to be taken previously to the making of the Order have been complied with.

SECOND SCHEDULE.

[Section 60.]

ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
57 & 58 Vict. c. 60.	The Merchant Shipping Act, 1894.	Sections five hundred and seventy-two to six hundred and thirty-two inclusive, and the twenty-first schedule.
60 & 61 Vict. c. 61.	The Merchant Shipping (Exemption from Pilotage) Act, 1897.	The whole Act.
6 Edw. 7, c. 48.	The Merchant Shipping Act, 1906.	Section seventy-three.

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Companies Generally — Memorandum of Association — Articles of Association — Private Companies — Companies Limited by Guarantee — Associations Not for Profit — Unlimited Companies — Promotion and Promoters — The Prospectus — Underwriting — The Contract of Membership — Share Certificates — Share Warrants to Bearer — Transfer and Transmission of Shares — Calls, Forfeiture, Surrender, Lien and Disclaimer — General Meetings, Notices, and Resolutions — Directors — Dividends and Reserve Fund — The Auditors, Solicitor, and Secretary — Alteration of the Memorandum of Association — Alterations of Capital — Reduction of Capital — Powers of Attorney and Local Management — Borrowing — Registers to be kept — Returns to the Registrar under the Act — Miscellaneous Matters — Compromises and Arrangements — Reconstruction of a Company — Pleadings and Notices of Motion.

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STATUTES

Enacted in the Session of Parliament, 1913.

3 GEO. 5.

CHAPTER 1.

[CONSOLIDATED FUND (No. 1) ACT, 1913.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and fourteen.

[28th March 1913.]

CHAPTER 2.

[ARMY (ANNUAL) ACT, 1913.]

An Act to provide, during Twelve Months, for the Discipline and Regulation of the Army.

[25th April 1913.]

CHAPTER 3.

[PROVISIONAL COLLECTION OF TAXES ACT, 1913.]

An Act to give statutory effect for a limited period to resolutions varying or renewing taxation, and to make provision with respect to payments and deductions made on account of any temporary tax between the dates of the expiration and renewal of the tax.

[25th April 1913.]

Be it enacted, &c. :

1. *Resolutions varying or renewing tax to have statutory effect for a limited period.*—(1) Where a resolution is passed by the Committee of Ways and Means of the House of Commons (so long as it is a Committee of the whole House) providing for the variation of any existing tax, or for the renewal for a further period of any tax in force or imposed during the previous financial year, whether at the same or a different rate, and whether with or without modifications, and the resolution contains a declaration that it is expedient in the public interest that the resolution should have statutory effect under the provisions of this Act, the resolution shall, for the period limited by this section, and subject to the provisions of this Act, have statutory effect as if contained in an Act of Parliament, and, where the resolution provides for the renewal of a tax, all enactments which were in force with reference to that tax as last imposed by Act of Parliament shall, during the said period, and subject to the provisions of this Act, have full force and effect with respect to the tax as renewed by the resolution:

Provided that—

- (a) The resolution shall cease to have statutory effect if it is not agreed to, with or without modification, by the House within the next ten days on which the House sits after the resolution is passed by the Committee, and also if a Bill varying or renewing the tax is not read a second time by the House within the next twenty days on which the House sits after the resolution is agreed to; and
- (b) The resolution shall cease to have statutory effect if Parliament is dissolved or prorogued, or an Act comes into operation varying or renewing the tax, or the resolution is rejected by the House, or the provisions giving effect to the resolution are rejected during the passage of

the Bill containing those provisions through the House, and the resolution, if modified by the House, shall have effect under this Act as so modified; and

- (c) Where the resolution so ceases to have statutory effect, or the said period terminates, before an Act comes into operation varying or renewing the tax, any money paid in pursuance of the resolution shall be repaid or made good, and any deduction made in pursuance of the resolution shall be deemed to be an unauthorized deduction; and

- (d) Where the tax as varied or renewed by the resolution is modified, either by the House or by the Act varying or renewing the tax, any money which has been paid in pursuance of the resolution which would not have been payable under the new conditions affecting the tax shall be repaid or made good, and any deduction made in pursuance of the resolution shall, so far as it would not have been authorized under the new conditions affecting the tax, be deemed to be an unauthorized deduction; and

- (e) When during any session a resolution has had statutory effect under this Act, statutory effect shall not be again given under this Act in the same session to the same resolution or to a resolution having the same effect.

(2) The period for which a resolution shall have statutory force under this section shall be a period expiring at the end of four months after the date on which the resolution is expressed to take effect, or, if no such date is expressed, after the date on which the resolution is passed by the Committee.

(3) In this Act any expression referring to the renewal of a tax shall be deemed to refer also to the reimposition of a tax.

2. *Payments and deductions made on account of temporary tax before renewal of tax.*—(1) Any payment or deduction made on account of a temporary tax within one month after the date of the expiration of the tax shall, if the payment or deduction would have been a legal payment or deduction if the tax had not expired, be deemed to be a legal payment or deduction, subject to the condition that if a resolution is not passed by the House of Commons or by the Committee of Ways and Means of the House of Commons (if that Committee is a Committee of the whole House) within that month for the renewal of the tax, or if such a resolution is passed within that month but ceases to have statutory effect under this Act, any money so paid or deducted shall be repaid or made good, and that if the tax is ultimately renewed at a different rate, or with modifications, any amount paid or deducted which could not properly have been paid or deducted under the new conditions affecting the tax shall be repaid or made good.

For the purposes of this provision, the expression "temporary tax" means a tax which has been imposed or renewed for a limited period not exceeding eighteen months, and was in force or imposed during the previous financial year.

(2) Section ninety-five of the Finance (1909-10) Act, 1910, shall have effect with respect to any duties imposed by the Finance Act of this or any previous year, with the substitution of a reference to that Finance Act for any reference in that section to "this Act," but this provision shall

not affect any past proceeding in any court of law.

3. *Application of Act.* This Act shall apply only to duties of customs and excise and to income tax.

4. *Short title.* This Act may be cited as the Provisional Collection of Taxes Act, 1913.

CHAPTER 4.

[PRISONERS (TEMPORARY DISCHARGE FOR ILL-HEALTH) ACT, 1913.]

An Act to provide for the Temporary Discharge of Prisoners whose further detention in prison is undesirable on account of the condition of their Health.

[25th April 1913.]

Be it enacted, &c. :

1. *Power of Secretary of State to discharge prisoners temporarily on account of their health.*—(1) If the Secretary of State is satisfied that by reason of the condition of a prisoner's health it is undesirable to detain him in prison, but that, such condition of health being due in whole or in part to the prisoner's own conduct in prison, it is desirable that his release should be temporary and conditional only, the Secretary of State may, if he thinks fit, having regard to all the circumstances of the case, by order authorize the temporary discharge of the prisoner for such period and subject to such conditions as may be stated in the order.

(2) Any prisoner so discharged shall comply with any conditions stated in the order of temporary discharge, and shall return to prison at the expiration of the period stated in the order, or of such extended period as may be fixed by any subsequent order of the Secretary of State, and, if the prisoner fails so to comply or return, he may be arrested without warrant and taken back to prison.

(3) Where a prisoner under sentence is discharged in pursuance of an order of temporary discharge, the currency of the sentence shall be suspended from the day on which he is discharged from prison under the order to the day on which he is received back into prison, so that the former day shall be reckoned and the latter shall not be reckoned as part of the sentence.

(4) Where an order of temporary discharge is made in the case of a prisoner not under sentence, the order shall contain conditions requiring the attendance of the prisoner at any further proceedings on his case at which his presence may be required.

2. *Sarnings.*—(1) Where the prisoner is undergoing a sentence of penal servitude, the powers under this Act shall be in addition to and not in substitution for the power of granting licences under the Penal Servitude Acts, 1853 and 1891.

(2) Nothing in this Act shall affect the duties of the medical officer of a prison in respect of a prisoner whom the Secretary of State does not think fit to discharge under this Act.

3. *Application to Scotland and Ireland.* In the application of this Act to Scotland and Ireland, references to the Secretary of State shall be construed as references to the Secretary for Scotland and the Lord Lieutenant respectively.

4. *Short title.* This Act may be cited as the Prisoners (Temporary Discharge for Ill-health) Act, 1913.

3 & 4 Geo. 5.

CHAPTER 5.

[CONSOLIDATED FUND (NO. 2) ACT, 1913.]

An Act to apply a sum out of the Consolidated Fund to the service of the year ending on the thirty-first day of March one thousand nine hundred and fourteen.

[4th July 1913.]

CHAPTER 6.

[EXTENSION OF POLLING HOURS ACT, 1913.]
An Act to extend the Hours of Polling at Parliamentary Elections.

[15th August 1913.]

Be it enacted, &c.:

1. Extension of Polling Hours.—(1) Where any candidate at a parliamentary election or a candidate's agent on his behalf gives notice in writing to the returning officer during the nomination time or within one hour afterwards that he wishes the poll at that election—

- (a) to commence at seven o'clock in the forenoon, or
 - (b) to be kept open till nine o'clock in the afternoon, or
 - (c) to commence at seven o'clock in the forenoon and be kept open till nine o'clock in the afternoon,
- the Election (Hours of Poll) Act, 1885, shall, in relation to that election be construed as if the hour specified in any such notice, whether as respects the commencement or close of the poll, were substituted for eight o'clock in the forenoon or eight o'clock in the afternoon, as the case may be, being the hours specified in that Act for the commencement and close of the poll respectively.

(2) For the purpose of giving public notice of an extension of the hours of polling under this Act, paragraph 9 of the First Schedule to the Ballot Act, 1872, shall, as respects any election to which this Act applies, be construed as if references to the day on which the poll will be or is to be taken included references to the hours at which the poll commences and up to which it will be kept open.

(3) A notice given by a candidate under this section shall not be of any effect for the purposes of this Act if the candidate is withdrawn or deemed to be withdrawn under the provisions of the Ballot Act, 1872.

(4) In this section—

The expression "agent" means an election agent within the meaning of the Corrupt and Illegal Practices Prevention Act, 1883:

The expression "nomination time" means the time appointed for the election within the meaning of the Ballot Act, 1872.

2. Short title.] This Act may be cited as the Extension of Polling Hours Act, 1913.

CHAPTER 7.

[CHILDREN (EMPLOYMENT ABROAD) ACT, 1913.]

An Act to prohibit and restrict Children and Young Persons being taken out of the United Kingdom with a view to singing, playing, performing, or being exhibited, for profit.

[15th August 1913.]

Be it enacted, &c.:

1. Restrictions on children and young persons going abroad for the purpose of performing for profit.—(1) If any person causes or procures any child or young person, or, having the custody, charge, or care of any child or young person, allows such child or young person to go out of the United Kingdom for the purpose of singing, playing, performing, or being exhibited, for profit, that person shall, unless, in the case of a young person, such a licence as is herein-after mentioned has been granted, be guilty of an offence against this Act.

(2) A constable or any person authorized by a

justice may take to a place of safety any child or young person in respect of whom there is reason to believe that an offence under this section has been or is about to be committed, and the provisions of section twenty of the Children Act, 1908 [8 Edw. 7, c. 67], shall apply as if such an offence were an offence mentioned in the First Schedule to that Act.

(3) This section shall not apply in any case where it is proved that the child or young person was only temporarily resident in the United Kingdom.

2. Grant of licences.—(1) A police magistrate may grant a licence in such form as the Secretary of State may prescribe, and subject to such restrictions and conditions as the police magistrate thinks fit, for any young person to go out of the United Kingdom for the purpose of singing, playing, performing, or being exhibited for profit, but no such licence shall be granted unless the police magistrate is satisfied—

- (a) that the application for the licence is made by or with the consent of the parent or guardian of the young person;
- (b) that the young person is going out of the United Kingdom in order to fulfil a particular engagement;
- (c) that the young person is fit for the purpose;
- (d) that proper provision has been made to secure the health, kind treatment, and adequate supervision of the young person whilst abroad and his return to the United Kingdom at the expiration or revocation of the licence;
- (e) that a copy of the contract of employment or other document, showing the terms and conditions of employment, drawn up in a language understood by the young person, has been furnished to the young person.

(2) A licence under this section shall not be granted for more than three months, but may be renewed by a police magistrate from time to time for a like period, but no such renewal shall be granted unless the police magistrate is satisfied by a report of a British consular officer or other trustworthy person that the conditions of the licence are complied with.

(3) Where a person applies for a licence or the renewal of a licence under this section, he shall, at least seven days before making the application, give notice thereof to the chief officer of the police for the district in which the young person resides or resided, and that officer may make a report in writing on the case to the police magistrate, or may appear or instruct some person to appear before the police magistrate hearing the application and show cause why the licence should not be granted or renewed, and the police magistrate shall not grant or renew the licence unless he is satisfied that notice has been properly so given. The notice given by the applicant shall be accompanied by a copy of the contract of employment or other document showing the terms and conditions of employment, which copy shall be sent by the chief officer of police to the police magistrate.

(4) The police magistrate to whom application is made for the grant or renewal of a licence under this section shall, unless he is satisfied that under the circumstances it is unnecessary, require the applicant to give such security, either by entering into a recognizance with or without sureties or otherwise, as he may think fit, for the observance of the restrictions and conditions contained in the licence, and the recognizance may be enforced in like manner as a recognizance for the doing of some matter or thing required to be done in a proceeding before a court of summary jurisdiction is enforceable.

(5) In any proceeding for enforcing a recognizance under this section a report of any British consular officer and any deposition made on oath before a British consular officer and authenticated by the signature of that officer respecting the observance or non-observance of any of the conditions or restrictions contained in a licence granted under this Act, shall, upon proof that the consular officer or deponent cannot be found in the United Kingdom, be ad-

missible in evidence; and it shall not be necessary to prove the signature or official character of the person appearing to have signed any such report or deposition.

(6) Where a licence is granted under this section, the police magistrate shall send to the Secretary of State for transmission to the proper consular officer such particulars as the Secretary of State may by regulation prescribe, and every consular officer shall register the particulars so transmitted to him and perform such other duties in relation thereto as the Secretary of State may direct.

(7) A licence granted under this section may be revoked by the police magistrate at any time if he is satisfied that any of the conditions on which the licence was granted are not being complied with.

3. Penalties and proceedings.—(1) A person guilty of an offence against this Act shall, on summary conviction, be liable, at the discretion of the court, to a fine not exceeding one hundred pounds, or alternatively or in default of payment of such fine, or in addition thereto, to imprisonment, with or without hard labour, for any term not exceeding three months:

Provided that, where the offender, by means of any false pretence or false representation, procures the child or young person to go out of the United Kingdom for any such purpose as aforesaid, he shall be liable on conviction on indictment to imprisonment, with or without hard labour, for any term not exceeding two years.

(2) Where proceedings are taken against any person under this Act in respect of any child or young person, and it is proved that the defendant caused or procured or allowed the child or young person to go out of the United Kingdom, and the child or young person has, out of the United Kingdom, been singing, playing, performing, or been exhibited, for profit, the defendant shall be presumed to have caused or procured or allowed such child or young person to go out of the United Kingdom for that purpose unless the contrary is proved:

Provided that, where the contrary is proved, the court may order the defendant to take such steps as the court directs to secure the return of the child or young person to the United Kingdom, or to enter into a recognizance to make such provision as the court may direct to secure the health, kind treatment, and adequate supervision of the child or young person whilst abroad, and his return to the United Kingdom at the expiration of such period as the court may think fit.

(3) Proceedings in respect of an offence or for enforcing a recognizance under this Act may be instituted at any time within three months from the first discovery by the person taking the proceedings of the commission of the offence or (as the case may be) the non-observance of the restrictions and conditions contained in the licence.

(4) The wife or husband of a person charged with an offence under this Act may be called as a witness either for the prosecution or defence and without the consent of the person charged.

4. Interpretation.] For the purposes of this Act, the expression "police magistrate" means the chief magistrate of the metropolitan police courts or one of the other magistrates of the metropolitan police court in Bow Street, and the expression "chief officer of police"—

(a) with respect to the city of London, means the Commissioner of the City Police;

(b) Elsewhere in England has the same meaning as in the Police Act, 1890 [53 & 54 Vict., c. 45];

(c) in Scotland has the same meaning as in the Police (Scotland) Act, 1890 [53 & 54 Vict., c. 67];

(d) in the police district of Dublin metropolitan, means either of the Commissioners of Police for the said district;

(e) elsewhere in Ireland, means a district inspector of the Royal Irish Constabulary.

5. Short title, construction, and commencement.]—(1) This Act may be cited as the Children (Employment Abroad) Act, 1913, and shall be construed as one with the Children Act, 1908;

Statutes.

3 & 4 GEO. 5, Ch. 8-16.

and that Act, the Children Act (1906) Amendment Act, 1910 [10 Edw. 7 & 1 Geo. 5, c. 25], and this Act may be cited together as the Children Acts, 1906 to 1913.

(2) This Act shall come into operation on the expiration of one month from the passing thereof.

CHAPTER 8.

[CROWN LANDS ACT, 1913.]

An Act to authorize the execution of instruments on behalf of the Commissioners of Woods.

[15th August 1913.]

Be it enacted, &c. :

1. *Execution of instruments on behalf of Commissioners of Woods.*—(1) Any deed or other instrument requiring to be executed by the Commissioners of Woods, or any two or one of them, or to which they or he are or is a party, may be executed by any permanent secretary of His Majesty's Office of Woods, Forests, and Land Revenues on behalf of the Commissioners of Woods, and if so executed shall be deemed to have been executed by the Commissioners of Woods, and shall have effect accordingly.

(2) Any deed or other instrument purporting to be so executed shall, until the contrary is proved, be deemed to have been duly executed by the Commissioners of Woods without proof of the official character or handwriting of the person appearing to have executed it.

2. *Short title.*] This Act may be cited as the Crown Lands Act, 1913; and the Crown Lands Acts, 1829 to 1906, and this Act may be cited together as the Crown Lands Acts, 1829 to 1913.

CHAPTER 9.

[HERRING FISHERY (BRANDING) ACT, 1913.]

An Act to provide for the Branding of Barrels filled with Cured Herrings in England and Wales.

[15th August 1913.]

Be it enacted, &c. :

1. *Power to brand barrels filled with cured herrings.*—(1) In any place in which this section is in force barrels filled with cured white herrings may be presented to an officer appointed by the Board of Agriculture and Fisheries for the purpose of being branded or otherwise marked with a mark denoting the description of the herrings contained therein, and any barrel so presented shall, on payment of the prescribed fee and on compliance with the prescribed conditions, be marked accordingly, if, in the opinion of the officer, after inspection and examination, the construction, capacity, and condition of the barrel and the quality, curing, selection, and packing of the herrings are such as to satisfy the prescribed requirements.

(2) The Board of Agriculture and Fisheries may, by order published in such manner as the Board direct, declare this section to be in force in any place in England or Wales if it is shewn to their satisfaction that there is a general desire on the part of the curers of herrings carrying on business in that place that such an order should be made.

The Board shall, at least two months before making any such order, give notice of their intention to make the order in such manner as the Board think calculated to give publicity thereto in the locality, and shall consider any objections or representations made to them in the interval.

(3) No barrel or half-barrel shall be branded unless it have a capacity, in the case of a barrel, of twenty-six and two-thirds imperial gallons, or, in the case of a half-barrel, of thirteen and a third imperial gallons.

(4) For the purposes of this Act, the expression "barrel" includes half-barrel when the context permits.

2. *Forgery of brands.*—(1) If any person forges or counterfeits any mark used for marking barrels under this Act, he shall be liable on summary conviction to a fine not exceeding fifty pounds.

(2) If any person knowingly uses, sells, utters, disposes of, or exposes for sale any barrel (whether filled with herrings or not) with such forged or

counterfeit mark thereon, he shall be liable on summary conviction to a fine not exceeding ten pounds. All barrels with any such forged or counterfeit mark thereon, and the contents thereof, shall be liable to be forfeited.

(3) For the purposes of this section, any person who removes a mark from any barrel and inserts the same into another barrel shall be deemed to forge or counterfeit a mark within the meaning of this section.

3. *Penalty on use of old barrels bearing brand.*] If any person fraudulently uses any old barrel bearing a mark affixed under this Act for the purpose of packing herrings or other fish therein, he shall be liable on summary conviction to a fine not exceeding ten pounds, and the barrel and the contents thereof shall be liable to be forfeited.

4. *Provision for Northumberland.*] If section one of this Act is put in force in any part of the area to which the Branding of Herrings (Northumberland) Act, 1891, applies, the powers of the Fishery Board for Scotland and of their officers under that Act shall cease to be exercisable in that part so far as concerns the branding or otherwise dealing with barrels of herrings.

5. *Regulations.*—(1) For the purposes of this Act, the Board of Agriculture and Fisheries may make regulations with respect to any matter which under this Act may be prescribed, subject, as respects fees, to the consent of the Treasury, and for prescribing—

- (a) the manner in which barrels are to be presented for the purpose of being marked;
- (b) the manner in which barrels are to be marked and the nature of the marks;
- (c) the manner in which the inspection and examination of barrels and their contents are to be conducted;

and generally for carrying this Act into effect.

(2) If any person, in any declaration required under such regulations, makes any statement which to his knowledge is false in any material particular, he shall be liable on summary conviction to a fine not exceeding ten pounds.

6. *Legal proceedings.*—(1) All barrels and the contents thereof forfeited under this Act shall be sold or otherwise disposed of as a court of summary jurisdiction may direct.

(2) Where a person is convicted under any section of this Act and the court by which he is convicted is of opinion that the offence was committed with intent to defraud, he shall be liable, in addition to or in lieu of any fine, to imprisonment with or without hard labour for a term not exceeding two months.

(3) In England, Wales, or Ireland any person who feels himself aggrieved by a conviction or order of a court of summary jurisdiction under this Act may appeal to a quarter sessions in accordance with the Summary Jurisdiction Acts.

7. *Short title.*] This Act may be cited as the Herring Fishery (Branding) Act, 1913.

CHAPTER 10.

[GOVERNMENT OF THE SUDAN LOAN ACT, 1913.]

An Act to authorize the Treasury to guarantee the Payment of Interest on a Loan to be raised by the Government of the Sudan.

[15th August 1913.]

CHAPTER 11.

[POST OFFICE ACT, 1913.]

An Act to enable Newspapers published in British Possessions or Protectorates to be registered and be treated as Registered Newspapers under the Post Office Act, 1908.

[15th August 1913.]

Be it enacted, &c. :

1. *Extension of provisions as to registration of newspapers to newspapers published in British possessions or protectorates.*] The provisions of the Post Office Act, 1908, relating to the registration of newspapers and registered newspapers shall apply to publications printed and published in a British possession or pro-

tectorate as they apply to publications printed and published in the British Islands, and accordingly paragraph (a) of subsection (1) of section twenty of the Post Office Act, 1908 (which relates to the publications which may be registered as a newspaper), shall be read as if the words "or in some British possession or protectorate" were inserted after the words "in the British Islands":

Provided that the Postmaster General may refuse to register as a newspaper a publication printed and published in a British possession or protectorate, unless arrangements have been made to his satisfaction for maintaining a responsible representative of the publication in the United Kingdom.

For the purposes of this provision, the expression "British Protectorate" shall be deemed to include the Malay States and Cyprus.

2. *Short title.*] This Act may be cited as the Post Office Act, 1913, and shall be read as one with the Post Office Act, 1908.

CHAPTER 12.

[EDUCATION (SCOTLAND) ACT, 1913.]

An Act to enable the provision of Medical Treatment for Children attending School in Scotland.

[15th August 1913.]

CHAPTER 13.

[EDUCATION (SCOTLAND) (GLASGOW ELECTORAL DIVISIONS) ACT, 1913.]

An Act to divide the District of the Sch. Board of Glasgow for Electoral Purposes.

[15th August 1913.]

CHAPTER 14.

[PUBLIC BUILDINGS EXPENSES ACT, 1913.]

An Act to amend section nine of the Finance Act, 1908.

[15th August 1913.]

Be it enacted, &c. :

1. *Appropriation of surplus under 8 Edw. 7, c. 16, s. 9.*—(1) The sum of six hundred thousand pounds applicable under section nine of the Finance Act, 1908, for or in connection with public offices on land at Westminster may, so far as not required for that purpose, be applied to the extent of one hundred and forty-five thousand pounds in defraying any expenses incurred by the Commissioners of Works in erecting buildings and executing other works for or in connection with the museum, office, and college mentioned in the Schedule to this Act, and the said section nine shall* have effect accordingly.

(2) Section two of the Public Buildings Expenses Act, 1898, shall have effect as if it were herein re-enacted and in terms made applicable to this Act.

2. *Short title.*] This Act may be cited as the Public Buildings Expenses Act, 1913.

CHAPTER 15.

[EXPIRING LAWS CONTINUANCE ACT, 1913.]

An Act to continue various Expiring Laws.

[15th August 1913.]

CHAPTER 16.

[FOREIGN JURISDICTION ACT, 1913.]

An Act to amend the Foreign Jurisdiction Act, 1890.

[15th August 1913.]

Be it enacted, &c. :

1. *Power to extend additional enactments.*] The Foreign Jurisdiction Act, 1890, shall have effect as if the enactments mentioned in the First Schedule to that Act (being enactments which may be applied by Order in Council to foreign countries in which for the time being His Majesty has jurisdiction) there were added the enactments mentioned in the Schedule to this Act.

2. *Short title.*] This Act may be cited as the Foreign Jurisdiction Act, 1913, and the Foreign Jurisdiction Act, 1890, and this Act may be

cited together as the Foreign Jurisdiction Acts, 1890 and 1913.

SCHEDULE.

ENACTMENTS WHICH MAY BE EXTENDED.

Session and Chapter.	Title.	Enactments which may be extended by Order in Council.
32 & 33 Vict. c. 10.	The Colonial Prisoners Removal Act, 1869	The whole Act
55 & 56 Vict. c. 6.	The Colonial Probates Act, 1892	The whole Act.
57 & 58 Vict. c. 30.	The Finance Act, 1894	Section twenty.
63 & 64 Vict. c. 14.	The Colonial Solicitors Act, 1900	The whole Act.
8 Edw. 7. c. 69.	The Companies (Consolidation) Act, 1908	Sections thirty-four, thirty-five, & thirty-six

CHAPTER 17.

[FABRICS (MISDESCRIPTION) ACT, 1913.]

An Act to prevent the Misdescription of Fabrics.

[15th August, 1913.]

Be it enacted, &c. :

1. Prohibition of sale with misleading description as to inflammability. It shall not be lawful for any person to sell, or expose, or have in his possession for sale, any textile fabric either in the piece, or made up into garments, or in any other form to which is attributed expressly or inferentially the quality of non-inflammability, or safety from fire, or any degree of such quality of non-inflammability or safety from fire—

(1) by wording or marking, descriptive or otherwise—

- (a) upon the material ; or
- (b) upon any wrapper or band ; or
- (c) contained in any letterpress or writing referring to the material ; or

(2) by verbal representation at the time of sale ;

unless such textile fabric conforms to such standard of non-inflammability as may be prescribed by regulations to be made by the Secretary of State, and, if any person sells, or has in his possession, textile fabric in contravention of this Act, he shall be liable on summary conviction to a fine not exceeding, in the case of a first offence, ten pounds, or, in the case of a second or subsequent offence, fifty pounds.

2. Power of Secretary of State to make regulations. All regulations made by the Secretary of State under this Act shall be laid before Parliament as soon as may be after they are made, and the Rules Publication Act, 1893, shall apply to such regulations as if they were statutory rules within the meaning of section one of that Act.

3. Cases where vendors purchase under warranty. Where in any proceedings against a person charged with an offence under this Act, it is proved that an offence under this Act has been committed, but that the person charged with the offence—

(a) purchased the textile fabric in respect of which the offence was committed from a person resident within the United Kingdom who sold the textile fabric under a warranty that it complied with the prescribed standard of non-inflammability ; and

(b) took reasonable steps to ascertain, and did in fact believe in the accuracy of the statement contained in the warranty ;

the person so charged shall be entitled upon an information duly laid by him to have the person who gave the warranty brought before the court, and that person may be summarily convicted of the offence, and the person originally charged shall be exempt from any fine, and the person so

convicted shall, in the discretion of the court, also be liable to pay any costs incidental to the proceedings.

4. Material found in possession deemed to be for sale. Where a person is charged with having textile fabric in his possession in contravention of this Act, any such material proved in the proceedings to have been found in his possession shall be deemed to be intended for sale as aforesaid unless the contrary is proved.

5. Powers and duties of local authorities.—(1) It shall be the duty of every local authority to enforce the provisions of this Act within their district, and for that purpose any male or female person or officer whom the local authority may appoint shall have power, if so authorized by the local authority, to institute and carry on any proceedings which the local authority is authorized to institute and carry on under this Act.

(2) In this Act the expression "local authority" means—
as respects the city of London, the common council ;
as respects any municipal borough, the council of the borough ;
as respects any urban district, the district council ;
elsewhere, the county council :

Provided that the London County Council may, with the approval of the Secretary of State, make arrangements with the council of any metropolitan borough for the exercise by the metropolitan borough as agents for the London County Council, on such terms and subject to such conditions as may be agreed on, of any powers of the London County Council under this Act within the district of the metropolitan borough, and the council of the metropolitan borough may, as part of the agreement, undertake to pay the whole or any part of the expense incurred in connection with the exercise of the powers delegated to them.

(3) The expenses of a local authority under this Act shall be defrayed,—

in the case of the common council of the city of London, out of the general rate ;
in the case of the council of a borough, out of the borough fund or borough rate ;
in the case of a district council, as part of the general expenses incurred in the execution of the Public Health Acts ;
in the case of a county council, as expenses for special county purposes ;
in the case of a metropolitan borough council, as part of the expenses of the council.

6. Fines imposed to be paid to local authorities. All fines imposed in any proceedings instituted by a local authority in pursuance of their powers and duties under this Act shall be paid to the local authority and carried to the credit of the fund out of which the expenses incurred by the authority under this Act are defrayed.

7. Application to Scotland. This Act shall apply to Scotland (subject to certain modifications).

8. Application to Ireland. This Act shall apply to Ireland (subject to certain modifications).

9. Short title and commencement of Act. This Act may be cited as the Fabrics (Misdescription) Act, 1913, and shall come into operation on the first day of January nineteen hundred and fourteen.

CHAPTER 18.

[ISLE OF MAN (CUSTOMS) ACT, 1913.]

An Act to amend the Law with respect to Customs in the Isle of Man.

[15th August, 1913.]

CHAPTER 19.

[LOCAL GOVERNMENT (ADJUSTMENTS) ACT, 1913.]

An Act to extend and amend the Law relating to the Adjustment of Financial Relations between Local Government Areas

on the Alteration of the Boundaries thereof or other change in relation to which the adjustment takes place.

[15th August 1913.]

Be it enacted, &c. :

1. Amendment of law as to adjustments on alteration of local government boundaries, and extension of matters in respect of which adjustment may be made.—(1) On any adjustment under section thirty-two or section sixty-two of the Local Government Act, 1888, or under section sixty-eight of the Local Government Act, 1894—

(a) Any adjustment of the Local Taxation Licences, the Estate Duty Grant, and the residue under section one of the Local Taxation (Customs and Excise) Act, 1890, shall be carried out in accordance with the rules contained in Part I. of the Schedule to this Act :

(b) Provision shall be made for the payment to any authority of such sum as seems equitable in accordance with the rules contained in Part II. of the Schedule to this Act, in respect of any increase of burden which will properly be thrown on the ratepayers of the area of that authority in meeting the cost incurred by that authority in the execution of any of their powers and duties as a consequence of any alteration of boundaries or other change in relation to which the adjustment takes place.

(2) This section shall apply to any adjustment made (otherwise than by agreement) under any of the said sections thirty-two and sixty-eight of the Local Government Act, 1888, and sixty-eight of the Local Government Act, 1894, whether as originally enacted or as applied in England or Wales by any other Act, or by any Provisional Order, or by any order made or confirmed by the Local Government Board under the Local Government Act, 1888, or the Local Government Act, 1894, and consequent on an alteration of boundaries or other change effected after the passing of this Act.

2. Short title and repeal. This Act may be cited as the Local Government (Adjustments) Act, 1913.

SCHEDULE.

PART I.

RULES FOR DETERMINING ADJUSTMENT OF THE LOCAL TAXATION LICENCES, THE ESTATE DUTY GRANT, AND THE RESIDUE UNDER SECTION ONE OF THE LOCAL TAXATION (CUSTOMS AND EXCISE) ACT, 1890.

(1) The portion of the Local Taxation Licences and Estate Duty Grant payable or estimated to be payable in respect of the area of the administrative county as it existed immediately before the appointed day shall after the appointed day be divided between the councils between which the adjustment is to be made, and the amount payable to each shall be apportioned on the following basis :—

(a) There shall be apportioned to the council of the administrative county from which the area is severed amounts equal to the average annual amounts of the compulsory payments and transfers made by or on behalf of that council in accordance with section twenty-four of the Local Government Act, 1888, in respect of the five years ending the thirty-first day of March preceding the appointed day, less the portions of such average annual amounts paid and transferred for and in respect of the separated area, and amounts equal to such last-mentioned portions shall be apportioned to the council of the other administrative county.

(b) Out of the balance (if any) of the said portion of the Local Taxation Licences and Estate Duty Grant there shall next be apportioned to the council of the administrative county from which the area is severed amounts equal to the average annual amounts of the compul-

sory payments made by or on behalf of that council in accordance with section twenty-six of the Local Government Act, 1888, in respect of the five years ending the thirty-first day of March preceding the appointed day, less the portions of such average annual amounts paid for and in respect of the separated area, and amounts equal to such last-mentioned portions shall be apportioned to the council of the other administrative county.

- (c) Out of the balance (if any) of the said portion of the Local Taxation Licences and Estate Duty Grant there shall next be apportioned to the council of the administrative county from which the area is severed a sum equal to one-half of the average annual cost during the five years preceding the appointed day of the maintenance of main roads within the county (including any payments made in respect of the interest on or of the repayment of the capital of loans raised on account of such main roads), after deducting the amount of one-half of such cost incurred in respect of main roads within the area separated from the county, and such last-mentioned amount shall be apportioned to the council of the other administrative county :

Provided that, if it appears that the council of the administrative county from which the area is severed have failed to declare any roads in the county to be main roads which ought to have been so declared, or have declared any roads to be main roads which ought not to have been so declared, proper adjustments shall be made in the calculation of the cost of maintenance of main roads in the county under this rule, by the inclusion of the cost of such roads as ought to have been declared to be main roads or the exclusion of the cost of such roads as ought not to have been declared to be main roads, as the case may require :

- (d) If any balance of the Local Taxation Licences and Estate Duty Grant remains after apportioning between the two councils the sums ascertained in accordance with the foregoing rules, such balance shall be divided between the councils in proportion to the rateable values on the appointed day of the administrative county from which the area is severed less that area, and of that area, respectively :

- (e) If any difficulty arises in ascertaining for the purposes of paragraph (a) or paragraph (b) the portion of any item paid or transferred for and in respect of the separated area or any part thereof, a portion of that item proportionate to the rateable value at the commencement of the financial year in respect of which the payment or transfer was made of that area or part as compared with the rateable value of the whole area for and in respect of which the item was paid or transferred shall be deemed to have been paid or transferred for and in respect of the separated area :

- (f) If the amount available for apportionment under any of the preceding paragraphs is insufficient to meet the whole of the amounts apportioned under the paragraph to the two administrative counties, those amounts shall be reduced proportionately.

(2) The residue under section one of the Local Taxation (Customs and Excise) Act, 1890, payable or estimated to be payable in respect of the area of the administrative county as it existed immediately before the appointed day shall, after the appointed day, be divided between the councils in proportion to the rateable values on the appointed day of the administrative county from which the area is severed less that area, and of that area, respectively.

(3) For the purposes of this schedule, the expression "administrative county" includes a

county borough, the expression "appointed day" means the day fixed for the transfer of the separated area from one administrative county to another, or, if the transfer is for the purposes of sections twenty to twenty-six of the Local Government Act, 1888, to be deemed to take effect at some later date, then such later date; and the expression "rateable value" means (unless the parties to the adjustment otherwise agree) the rateable value as determined by the last valuation list, or, if there is no valuation list, by the last poor rate.

PART II.

RULES FOR DETERMINING SUM TO BE PAID IN RESPECT OF INCREASE OF BURDEN ON RATEPAYERS.

- (1) Regard shall be had to—

(a) The difference between the burden on the ratepayers which will properly be incurred by the authority in meeting the cost of executing any of their powers and duties and the burden on the ratepayers which would properly have been incurred by the authority in meeting such cost had no alteration of boundaries or other change taken place;

(b) The length of time during which the increase of burden may be expected to continue :

Provided that no alteration of income in consequence of an apportionment under Part I. of the schedule shall be taken into account.

(2) The sum payable to any authority in respect of the increase of burden shall not exceed, or, if payable by instalments or by way of annuity, the capitalised value of the instalments or annuity shall not exceed, the average annual increase of burden multiplied by fifteen.

(3) Any sum payable in respect of the cost of the maintenance of main roads shall be payable by way of annuity.

CHAPTER 20.

[BANKRUPTCY (SCOTLAND) ACT, 1913.]

An Act to consolidate and amend the Laws relating to Bankruptcy in Scotland.

[15th August 1913.]

CHAPTER 21.

[APPELLATE JURISDICTION ACT, 1913.]

An Act to make further provision with respect to the number and duties of Lords of Appeal in Ordinary, and with respect to the constitution of the Court of Appeal and the Judicial Committee of the Privy Council.

[15th August 1913.]

Be it enacted, &c. :

1. Additional Lords of Appeal. His Majesty may appoint two Lords of Appeal in Ordinary under section six of the Appellate Jurisdiction Act, 1876, in addition to the four Lords of Appeal in Ordinary whom he may appoint under sections six and fourteen of that Act and the law relating to the appointment and qualifications of Lords of Appeal under the said section six, and to their duties and tenure of office, their rank, salary, and pension, and otherwise, shall apply to any Lord of Appeal appointed under this section : Provided that the sum paid in salaries in any one year to the Lords of Appeal in Ordinary appointed under this Act shall in no case exceed twelve thousand pounds.

2. Lords of Appeal to be ex-officio judges of Court of Appeal. Every Lord of Appeal in Ordinary, whether appointed before or after the passing of this Act, who at the date of his appointment would have been qualified to be appointed an ordinary judge of the Court of Appeal, or who at that date was a judge of that Court, shall be an ex-officio judge of that Court, but no such Lord of Appeal shall be required to sit and act as a judge of the Court of Appeal unless upon the request of the Lord Chancellor he consents so to do, and whilst so sitting and acting he shall rank therein according to his precedence as a peer.

3. Provisions as to colonial judges becoming members of the Judicial Committee.—(1) The maximum number of persons (being, or having been, judges in certain parts of His Majesty's dominions) who may become members of the Judicial Committee of the Privy Council by reason of the Judicial Committee Amendment Act, 1895, as amended by any subsequent enactment shall be increased from five to seven, and accordingly seven shall be substituted for five in subsection (2) of section one of that Act.

(2) Section one of the said Act shall have effect as if the persons named therein included any person being or having been Chief Justice or a Judge of the Supreme Court of South Africa.

(3) His Majesty may, by Order in Council, regulate the order in which the persons qualified to become members of the Judicial Committee under the said Act as so amended, are to become members thereof, so as to secure, as far as possible, an equal distribution of such members amongst the various parts of His Majesty's dominions to which the Act so amended relates.

(4) The enactments mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule, and in the schedule to the Appellate Jurisdiction Act, 1908, for the words "Cape of Good Hope, Natal, Transvaal, Orange River Colony" there shall be substituted the words "the Union of South Africa."

4. Short title. This Act may be cited as the Appellate Jurisdiction Act, 1913.

SCHEDULE. ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
58 & 59 Vict. c. 44.	The Judicial Committee Amendment Act, 1895.	In section one, the words "or either of the South African Colonies mentioned in the said schedule," In the schedule, the words "South African Colonies, Cape of Good Hope, Natal" Subsection (2) of section three.
8 Edw. 7. c. 51.	The Appellate Jurisdiction Act, 1908.	

CHAPTER 22.

[PUBLIC WORKS LOANS ACT, 1913.]

An Act to grant Money for the purpose of certain Local Loans out of the Local Loans Fund, and for other purposes relating to Local Loans.

[15th August 1913.]

CHAPTER 23.

[PUBLIC HEALTH (PREVENTION AND TREATMENT OF DISEASE) ACT, 1913.]

An Act to amend the Law relating to Public Health as respects the Prevention and Treatment of Disease.

[15th August 1913.]

Be it enacted, &c. :

1. Exercise of powers by local authorities within areas of joint boards. Notwithstanding the provisions of section two hundred and eighty-one of the Public Health Act, 1875, the Local Government Board may by order authorise a local authority having jurisdiction in any part of a united district to exercise in relation to that part any powers which the joint board are also authorised to exercise, subject, however, to *

such conditions and restrictions as may be imposed by the order.

2. Enforcement of epidemic diseases regulations by county councils.—The Local Government Board shall have power to declare that one of the authorities to execute and enforce regulations made by the Board under section one hundred and thirty of the Public Health Act, 1875, with a view to the treatment of persons affected with cholera or any other epidemic, endemic, or infectious disease, and preventing the spread of cholera and such other diseases, shall be the council of a county, and that section shall have effect accordingly as if a county council were an authority within the meaning of that section :

Provided that, except in case of emergency, the Local Government Board shall not require the council of a county to execute and enforce any such regulations without the consent of such council.

3. Treatment of tuberculosis.—It shall be lawful for the council of any county or for any sanitary authority to make any such arrangements as may be sanctioned by the Local Government Board for the treatment of tuberculosis : Provided that the power conferred by this section shall be in addition to and not in derogation of any other power.

4. Expenses.—Any expenses incurred under this Act shall, in the case of a sanitary authority, be defrayed as part of the expenses incurred by them in the execution of the Public Health Acts, and, in the case of a county council, as expenses for general county purposes, or, if the Local Government Board by order so direct, as expenses for special county purposes charged on such part of the county as may be provided by the order.

5. Short title.—This Act may be cited as the Public Health (Prevention and Treatment of Disease) Act, 1913.

CHAPTER 24.

[TELEGRAPH (MONEY) ACT, 1913.]

An Act to provide for raising further Money for the purpose of the Telegraph Acts, 1863 to 1911.

[15th August 1913.]

Be it enacted, &c. :

1. Grant for purposes of Telegraph Acts.—(1) The Treasury may, with a view to the development of that part of the telegraphic system of the United Kingdom which is called the telephonic system, without prejudice to the exercise of any powers previously given for the like purpose, issue out of the Consolidated Fund, or the growing produce thereof, such sums not exceeding in the whole the sum of ten million pounds, as may be required by the Postmaster-General for the purpose of developing the telephonic system aforesaid according to estimates approved by the Treasury.

(2) The Treasury may, if they think fit, for the purpose of providing money for sums so authorised to be issued out of the Consolidated Fund, or for repaying to that fund all or any part of the sums so issued, borrow by means of terminable annuities for a term not exceeding twenty years, and all sums so borrowed shall be paid into the Exchequer.

(3) The said annuities shall be paid out of moneys provided by Parliament for the service of the Post Office, and, if those moneys are insufficient, shall be charged on and paid out of the Consolidated Fund of the United Kingdom, or the growing produce thereof.

(4) The Treasury may also, if they think fit, for the same purpose borrow money by means of the issue of Exchequer bonds, and the Capital Expenditure (Money) Act, 1904, shall have effect as if this Act had been in force at the time of the passing of that Act.

(5) Section five of the Telephone Transfer Act, 1911 (which relates to audit), shall have effect as if this Act were included amongst the Acts therein mentioned.

2. Short title.—This Act may be cited as the

Telegraph (Money) Act, 1913, and may be cited with the Telegraph Acts, 1863 to 1911.

CHAPTER 25.

[COMPANIES ACT, 1913.]

An Act to amend the provisions of the Companies (Consolidation) Act, 1908, with respect to private Companies.

[15th August 1913.]

Be it enacted, &c. :

1. Amendment of the law relating to private companies.—(1) Where the articles of a company include the provisions which, by section one hundred and twenty-one of the Companies (Consolidation) Act, 1908, as amended by this Act, are required to be included therein in order to constitute the company a private company for the purposes of that Act, and default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions of that Act mentioned in the Schedule to this Act, and thereupon the said provisions shall apply to the company as if it were not a private company :

Provided that the court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the court just and expedient, order that the company be relieved from such consequences as aforesaid.

(2) In subsection (1) of the said section one hundred and twenty-one of the Companies (Consolidation) Act, 1908, for paragraph (b) the following paragraph shall be substituted :

"(b) limits the number of its members (exclusive of persons who are in the employment of the company and of persons who, having been formerly in the employment of the company, were while in such employment and have continued after the determination of such employment to be members of the company) to fifty; and"

(3) Every private company shall send with the annual list of members and summary required to be sent under section twenty-six of the Companies (Consolidation) Act, 1908, a certificate signed by a director or the secretary that the company has not, since the date of the last return, or in the case of a first return since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company; and, where the list of members discloses the fact that the number of members of the company exceeds fifty, also a certificate so signed that such excess consists wholly of persons who under section one hundred and twenty-one of that Act, as amended by this section, are to be excluded in reckoning the number of fifty.

2. Short title and construction.—This Act may be cited as the Companies Act, 1913, and shall be construed as one with the Companies (Consolidation) Act, 1908, and that Act and this Act may be cited together as the Companies Acts, 1908 and 1913.

SCHEDULE.

PROVISIONS OF THE COMPANIES (CONSOLIDATION) ACT, 1908.

Subsection (3) of section twenty-six (which relates to the making of an annual return in the form of a balance sheet).

Section one hundred and fourteen (which relates to the right of preference shareholders and debenture holders to receive and inspect balance sheets and reports).

Section one hundred and fifteen (which relates to the minimum number of members with which a company may continue to carry on business).

Paragraph (iv.) of section one hundred and twenty-nine (which makes the reduction of the number of members of a company below the minimum a ground for the winding up of the company).

CHAPTER 26.

[HIGHLANDS AND ISLANDS (MEDICAL SERVICE) GRANT ACT, 1913.]

An Act to provide a Special Grant for the purpose of improving Medical Service in the Highlands and Islands of Scotland, and for other purposes connected therewith.

[15th August 1913.]

CHAPTER 27.

[FORGERY ACT, 1913.]

An Act to consolidate, simplify, and amend the Law relating to Forgery and kindred Offences.

[15th August 1913.]

Be it enacted, &c. :

1. Definition of forgery.—(1) For the purposes of this Act, forgery is the making of a false document in order that it may be used as genuine, and in the case of the seals and dies mentioned in this Act the counterfeiting of a seal or die, and forgery with intent to defraud or deceive, as the case may be, is punishable as in this Act provided.

(2) A document is false within the meaning of this Act if the whole or any material part thereof purports to be made by or on behalf of or on account of a person who did not make it nor authorize its making : or if, though made by or on behalf or on account of the person by whom or by whose authority it purports to have been made, the time or place of making, where either is material, or, in the case of a document identified by number or mark, the number or any distinguishing mark identifying the document, is falsely stated therein ; and in particular a document is false :—

- (a) if any material alteration, whether by addition, insertion, obliteration, erasure, removal, or otherwise, has been made therein ;
- (b) if the whole or some material part of it purports to be made by or on behalf of a fictitious or deceased person ;
- (c) if, though made in the name of an existing person, it is made by him or by his authority with the intention that it should pass as having been made by some person, real or fictitious, other than the person who made or authorized it.

(3) For the purposes of this Act—

- (a) It is immaterial in what language a document is expressed or in what place within or without the King's dominions it is expressed to take effect ;
- (b) Forgery of a document may be complete even if the document when forged is incomplete, or is not or does not purport to be such a document as would be binding or sufficient in law ;
- (c) The crossing on any cheque, draft on a banker, post-office money order, postal order, coupon, or other document the crossing of which is authorized or recognised by law, shall be a material part of such cheque, draft, order, coupon, or document.

2. Forgery of certain documents with intent to defraud.—(1) Forgery of the following documents, if committed with intent to defraud, shall be felony and punishable with penal servitude for life :—

- (a) Any will, codicil, or other testamentary document, either of a dead or of a living person, or any probate or letters of administration, whether with or without the will annexed ;
 - (b) Any deed or bond, or any assignment at law or in equity of any deed or bond, or any attestation of the execution of any deed or bond ;
 - (c) Any bank note, or any indorsement on or assignment of any bank note.
- (2) Forgery of the following documents, if committed with intent to defraud, shall be felony and punishable with penal servitude for any term not exceeding fourteen years :—
- (a) Any valuable security or assignment thereof or endorsement thereon, or,

Statutes.

3 & 4 GEO. 5, Ch. 27.

- where the valuable security is a bill of exchange, any acceptance thereof;
- (b) Any document of title to lands or any assignment thereof or endorsement thereon;
- (c) Any document of title to goods or any assignment thereof or endorsement thereon;
- (d) Any power of attorney or other authority to transfer any share or interest in any stock, annuity, or public fund of the United Kingdom or any part of His Majesty's dominions or of any foreign state or country or to transfer any share or interest in the debt of any public body, company, or society, British or foreign, or in the capital stock of any such company or society, or to receive any dividend or money payable in respect of such share or interest or any attestation of any such power of attorney or other authority;
- (e) Any entry in any book or register which is evidence of the title of any person to any share or interest hereinbefore mentioned or to any dividend or interest payable in respect thereof;
- (f) Any policy of insurance or any assignment thereof or endorsement thereon;
- (g) Any charter-party or any assignment thereof;
- (h) Any declaration, warrant, order, affidavit, affirmation, certificate, or other document required or authorized to be made by or for the purposes of the Government Annuities Act, 1829, or the Government Annuities Act, 1832, or by the National Debt Commissioners acting under the authority of the said Acts;
- (i) Any certificate of the Commissioners of Inland Revenue or any other Commissioners acting in execution of the Income Tax Acts;
- (j) Any certificate, certificate of valuation, sentence or decree of condemnation or restitution, or any copy of such sentence or decree, or any receipt required by the Slave Trade Acts.

3. Forgery of certain documents with intent to defraud or deceive.]—(1) Forgery of the following documents, if committed with intent to defraud or deceive, shall be felony, and punishable with penal servitude for life:

Any document whatsoever having thereupon or affixed thereto the stamp or impression of the Great Seal of the United Kingdom, His Majesty's Privy Seal, any privy signet of His Majesty's, His Majesty's Royal Sign Manual, any of His Majesty's seals appointed by the Twenty-fourth Article of the Union between England and Scotland to be kept, used, and continued in Scotland, the Great Seal of Ireland or the Privy Seal of Ireland.

(2) Forgery of the following documents, if committed with intent to defraud or deceive, shall be felony, and punishable with penal servitude for any term not exceeding fourteen years:

- (a) Any register or record of births, baptisms, namings, dedications, marriages, deaths, burials, or cremations, which now is, or hereafter may be, by law authorized or required to be kept in the United Kingdom, relating to any birth, baptism, naming, dedication, marriage, death, burial, or cremation, or any part of any such register, or any certified copy of any such register, or of any part thereof;
- (b) Any copy of any register of baptisms, marriages, burials, or cremations, directed or required by law to be transmitted to any registrar or other officer;
- (c) Any register of the birth, baptism, death, burial, or cremation of any person to be appointed a nominee under the provisions of the Government Annuities Act, 1829, or any copy or certificate of

any such register, or the name of any witness to any such certificate;

- (d) Any certified copy of a record purporting to be signed by an assistant keeper of the Public Records in England;
- (e) Any wrapper or label provided by or under the authority of the Commissioners of Inland Revenue or the Commissioners of Customs and Excise.

(3) Forgery of the following documents, if committed with intent to defraud or deceive, shall be felony, and punishable with penal servitude for any term not exceeding seven years:

- (a) Any official document whatsoever of or belonging to any court of justice, or made or issued by any judge, magistrate, officer, or clerk of any such court;
- (b) Any register or book kept under the provisions of any law in or under the authority of any court of justice;
- (c) Any certificate, office copy, or certified copy of any such document, register, or book or of any part thereof;
- (d) Any document which any magistrate or any master or registrar in lunacy is authorized or required by law to make or issue;
- (e) Any document which any person authorized to administer an oath under the Commissioners for Oaths Act, 1889, is authorized or required by law to make or issue;
- (f) Any document made or issued by an officer of state or law officer of the Crown, or any document upon which, by the law or usage at the time in force, any court of justice or any officer might act;
- (g) Any document or copy of a document used or intended to be used in evidence in any Court of Record, or any document which is made evidence by law;
- (h) Any certificate required by any Act for the celebration of marriage;
- (i) Any licence for the celebration of marriage which may be given by law;
- (j) Any certificate, declaration, or order under any enactment relating to the registration of births or deaths;
- (k) Any register book, builder's certificate, surveyor's certificate, certificate of registry, declaration, bill of sale, instrument of mortgage, or certificate of mortgage or sale under Part I of the Merchant Shipping Act, 1894, or any entry or endorsement required by the said Part of the said Act to be made in or on any of those documents;
- (l) Any permit, certificate, or similar document made or granted by or under the authority of the Commissioners of Customs and Excise.

4. Forgery of other documents with intent to defraud or to deceive a misdemeanour.]—(1) Forgery of any document, which is not made felony under this or any other statute for the time being in force, if committed with intent to defraud, shall be a misdemeanour and punishable with imprisonment with or without hard labour for any term not exceeding two years.

(2) Forgery of any public document which is not made felony under this or any other statute for the time being in force, if committed with intent to defraud or deceive, shall be a misdemeanour and punishable with imprisonment with or without hard labour for any term not exceeding two years.

5. Forgery of seals and dies.]—(1) Forgery of the following seals, if committed with intent to defraud or deceive, shall be felony and punishable with penal servitude for life:

- (a) The Great Seal of the United Kingdom, His Majesty's Privy Seal, any privy signet of His Majesty, His Majesty's Royal Sign Manual, any of His Majesty's seals appointed by the Twenty-fourth Article of the Union between England and Scotland to be kept, used, and continued in Scotland, the Great Seal of Ireland or the Privy Seal of Ireland;
- (b) The seal of the Public Record Office in England;

(c) The seal of any court of record;

- (d) The seal of the office of the Registrar-General of Births, Deaths, and Marriages.

(2) Forgery of the following seals, if committed with intent to defraud or deceive, shall be felony, and punishable with penal servitude for any term not exceeding fourteen years:

- (a) The seal of any register office relating to births, baptisms, marriages, or deaths;
- (b) The seal of any burial board or of any local authority performing the duties of a burial board;
- (c) The seal of or belonging to any office for the registry of deeds or titles to lands.

(3) Forgery of the following seals, if committed with intent to defraud or deceive, shall be felony and punishable with penal servitude for any term not exceeding seven years:

- (a) The seal of any court of justice other than a court of record;
- (b) The seal of the office of any master or registrar in lunacy.

(4) Forgery of the following dies, if committed with intent to defraud or deceive, shall be felony and punishable with penal servitude for any term not exceeding fourteen years:

- (a) Any die provided, made, or used by the Commissioners of Inland Revenue or the Commissioners of Customs and Excise;
- (b) Any die which is or has been required or authorized by law to be used for the marking or stamping of gold or silver plate, or gold or silver wares.

(5) Forgery of the following die, if committed with intent to defraud or deceive, shall be felony and punishable with penal servitude for any term not exceeding seven years:

- Any stamp or die provided, made, or used in pursuance of the Local Stamp Act, 1869.

6. Uttering.]—(1) Every person who utters any forged document, seal, or die shall be guilty of an offence of the like degree (whether felony or misdemeanour) and on conviction thereof shall be liable to the same punishment as if he himself had forged the document, seal, or die.

(2) A person utters a forged document, seal, or die, who, knowing the same to be forged, and with either of the intents necessary to constitute the offence of forging the said document, seal, or die, uses, offers, publishes, delivers, disposes of, tenders in payment or in exchange, exposes for sale or exchange, exchanges, tenders in evidence, or puts off the said forged document, seal, or die.

(3) It is immaterial where the document, seal, or die was forged.

7. Demanding property on forged documents, &c.] Every person shall be guilty of felony and on conviction thereof shall be liable to penal servitude for any term not exceeding fourteen years, who, with intent to defraud, demands, receives, or obtains, or causes or procures to be delivered, paid or transferred to any person, or endeavours to receive or obtain or to cause or procure to be delivered, paid or transferred to any person any money, security for money or other property, real or personal:

- (a) under, upon, or by virtue of any forged instrument whatsoever, knowing the same to be forged;

- (b) under, upon, or by virtue of any probate or letters of administration, knowing the will, testament, codicil, or testamentary writing on which such probate or letters of administration shall have been obtained to have been forged, or knowing such probate or letters of administration to have been obtained by any false oath, affirmation, or affidavit.

8. Possession of forged documents, seals, and dies.]—(1) Every person shall be guilty of felony and on conviction thereof shall be liable to penal servitude for any term not exceeding fourteen years, who, without lawful authority or excuse, the proof whereof shall lie on the accused, purchases or receives from any person, or has in his custody or possession, a forged bank note, knowing the same to be forged.

(2) Every person shall be guilty of felony and on conviction thereof shall be liable to penal ser-

vitude for any term not exceeding fourteen years, who, without lawful authority or excuse, the proof whereof shall lie on the accused, and knowing the same to be forged, has in his custody or possession—

- (a) any forged die required or authorized by law to be used for the marking of gold or silver plate, or of gold or silver wares, or any ware of gold, silver, or base metal bearing the impression of any such forged die;
 - (b) any forged stamp or die as defined by the Stamp Duties Management Act, 1891;
 - (c) any forged wrapper or label provided by or under the authority of the Commissioners of Inland Revenue or the Commissioners of Customs and Excise.
- (3) Every person shall be guilty of felony and on conviction thereof shall be liable to penal servitude for any term not exceeding seven years, who, without lawful authority or excuse, the proof whereof shall lie on the accused, and knowing the same to be forged, has in his custody or possession—

Any forged stamp or die, resembling or intended to resemble either wholly or in part any stamp or die which at any time whatever has been or may be provided, made, or used by or under the direction of the local authority for the purposes of the Local Stamp Act, 1869.

D. Making or having in possession paper or implements for forgery. Every person shall be guilty of felony and on conviction thereof shall be liable to penal servitude for any term not exceeding seven years, who, without lawful authority or excuse, the proof whereof shall lie on the accused—

- (a) Makes, uses, or knowingly has in his custody or possession any paper intended to resemble and pass as—

(i.) Special paper such as is provided and used for making any bank note, Treasury bill, or London county bill;

(ii.) Revenue paper;

- (b) Makes, uses, or knowingly has in his custody or possession, any frame, mould, or instrument for making such paper, or for producing in or on such paper any words, figures, letters, marks, lines, or devices peculiar to and used in or on any such paper;

- (c) Engraves or in anywise makes upon any plate, wood, stone, or other material, any words, figures, letters, marks, lines, or devices, the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or on any bank note, or in or on any document entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of any part of His Majesty's Dominions or of any foreign state, or in any stock, annuity, fund, or debt of any body corporate, company, or society, whether within or without His Majesty's dominions;

- (d) Uses or knowingly has in his custody or possession any plate, wood, stone, or other material, upon which any such words, figures, letters, marks, lines, or devices have been engraved or in anywise made as aforesaid;

- (e) Uses or knowingly has in his custody or possession any paper upon which any such words, figures, letters, marks, lines, or devices have been printed or in anywise made as aforesaid.

10. Purchasing or having in possession certain paper before it has been duly stamped and issued. Every person shall be guilty of a misdemeanour and on conviction thereof shall be liable to imprisonment, with or without hard labour, for any term not exceeding two years, who, without lawful authority or excuse the proof whereof shall lie on the accused, purchases, receives, or knowingly has in his custody or possession—

- (a) Any special paper provided and used for making Treasury bills or London county bills or any Revenue paper before such

paper has been duly stamped, signed, and issued for public use:

- (b) Any die peculiarly used in the manufacture of any such paper.

11. Accessories and abettors. Any person who knowingly and wilfully aids, abets, counsels, procures, or commands the commission of an offence punishable under this Act shall be liable to be dealt with, indicted, tried, and punished as a principal offender.

12. Punishments.—(1) Where a sentence of penal servitude may be imposed on conviction of an offence against this Act, the court may, instead thereof, impose a sentence of imprisonment, with or without hard labour, for not more than two years.

(2)—(a) On conviction of a misdemeanour punishable under this Act, the court, instead of or in addition to any other punishment which may be lawfully imposed, may fine the offender:

(b) On conviction of a felony punishable under this Act, the court, in addition to imposing a sentence of penal servitude or imprisonment, may require the offender to enter into his own recognizances, with or without sureties, for keeping the peace and being of good behaviour:

(c) On conviction of a misdemeanour punishable under this Act, the court, instead of or in addition to any other punishment which may lawfully be imposed for the offence, may require the offender to enter into his own recognizances, with or without sureties, for keeping the peace and being of good behaviour:

(d) No person shall be imprisoned under this section for more than one year for not finding sureties.

13. Jurisdiction of quarter sessions in England. A court of quarter sessions in England shall not have jurisdiction to try an indictment for any offence against this Act or for an offence which, under any enactment for the time being in force, is declared to be forgery or to be punishable as forgery.

14. Venue.—(1) A person charged—

- (a) with an offence against this Act; or
- (b) with an offence indictable at common law or under any Act for the time being in force consisting in the forging or altering of any matter whatsoever, or in offering, uttering, disposing of, or putting off any matter whatsoever, knowing the same to be forged or altered;

may be proceeded against, indicted, tried, and punished in any county or place in which he was apprehended or is in custody as if the offence had been committed in that county or place; and for all purposes incidental to or consequential on the prosecution, trial, or punishment of the offence, it shall be deemed to have been committed in that county or place:

Provided that, where the offence charged relates to documents made for the purpose of any Act relating to the suppression of the slave trade, it shall, for the purposes of jurisdiction and trial, be treated as an offence against the Slave Trade Act, 1873.

(2) Nothing in this section shall affect the laws relating to the government of His Majesty's naval or military forces.

15. Criminal possession. Where the having any document, seal, or die in the custody or possession of any person is in this Act expressed to be an offence, a person shall be deemed to have a document, seal or die in his custody or possession if he—

- (a) has it in his personal custody or possession; or

- (b) knowingly and wilfully has it in the actual custody or possession of any other person, or in any building, lodging, apartment, field, or other place, whether open or enclosed, and whether occupied by himself or not.

It is immaterial whether the document, matter, or thing is had in such custody, possession, or place for the use of such person or for the use or benefit of another person.

16. Search warrants.—(1) If it shall be made to appear by information on oath before a justice of the peace that there is reasonable cause to

believe that any person has in his custody or possession without lawful authority or excuse—

- (a) any bank note; or
- (b) any implement for making paper or imitation of the paper used for bank notes; or

- (c) any material having thereon any words, forms, devices, or characters capable of producing or intended to produce the impression of a bank note; or

- (d) any forged document, seal, or die; or

- (e) any machinery, implement, utensil, or material used or intended to be used for the forgery of any document;

the justice may grant a warrant to search for the same; and if the same shall be found on search, it shall be lawful to seize it and carry it before a justice of the county or place in which the warrant was issued, to be by him disposed of according to law.

(2) Every document, seal, or die lawfully seized under such warrant shall be defaced and destroyed or otherwise disposed of—

- (a) by order of the court before which the offender is tried; or

- (b) if there be no trial, by order of a justice of the peace; or

- (c) if it affects the public revenue, by the Commissioners of Inland Revenue or the Commissioners of Customs and Excise, as the case may require; or

- (d) if it affects any of the companies of Goldsmiths or Guardians referred to in the Gold and Silver Wares Act, 1844, by the said company or guardians.

17. Form of indictment and proof of intent.—(1) In an indictment or information for an offence against this Act with reference to any document, seal, or die, it is sufficient to refer to the document, seal, or die by any name or designation by which it is usually known, or by its purport, without setting out any copy or facsimile of the whole or any part of the document, seal, or die.

(2) Where an intent to defraud or an intent to deceive is one of the constituent elements of an offence punishable under this Act, or under any other Act relating to forgery or any kindred offence for the time being in force, it shall not be necessary to allege in the indictment or to prove an intent to defraud or deceive any particular person; and it shall be sufficient to prove that the defendant did the act charged with intent to defraud or to deceive, as the case may require.

(3) If any person who is a member of any co-partnership, or is one of two or more beneficial owners of any property, forges any document, matter, or thing with intent to defraud the co-partnership or the other beneficial owners, he is liable to be dealt with, indicted, tried, and punished as if he had not been or was not a member of the co-partnership, nor one of such beneficial owners.

18. Interpretation.—(1) In this Act unless the context otherwise requires—

The expression "bank note" includes any note or bill of exchange of the Bank of England or Bank of Ireland, or of any other person, body corporate, or company carrying on the business of banking in any part of the world, and includes "bank bill," "bank post bill," "blank bank note," "blank bank bill of exchange," and "blank bank post bill":

The expression "die" includes any plate, type, tool, or implement whatsoever, and also any part of any die plate, type, tool, or implement, and any stamp or impression thereof or any part of such stamp or impression:

The expression "document of title to goods" includes any bill of lading, India warrant, dock warrant, warehouse keepers certificate, warrant or order for the delivery or transfer of any goods or valuable thing, bought or sold note, or any other document used in the ordinary course of business as proof of the possession or control of goods, or authorising or purporting to authorise either by endorsement or by delivery the possessor of such document to transfer or receive any goods thereby

represented or therein mentioned or referred to:

The expression "document of title to lands" includes any deed, map, roll, register, or instrument in writing being or containing evidence of the title or any part of the title to any land or to any interest in or arising out of any land, or any authenticated copy thereof:

The expression "revenue paper" means any paper provided by the proper authority for the purpose of being used for stamps, licences, permits, Post Office money orders, or postal orders, or for any purpose whatever connected with the public revenue:

The expression "seal" includes any stamp or impression of a seal or any stamp or impression made or apparently intended to resemble the stamp or impression of a seal, as well as the seal itself:

The expression "stamp" includes a stamp impressed by means of a die as well as an adhesive stamp:

The expression "Treasury bill," includes Exchequer bill, Exchequer bond, Exchequer debenture, and War bond:

The expression "valuable security" includes any writing entitling or evidencing the title of any person to any share or interest in any public stock, annuity, fund, or debt of any part of His Majesty's dominions or of any foreign state, or in any stock, annuity, fund, or debt of any body corporate, company, or society, whether within or without His Majesty's dominions, or to any deposit in any bank, and also includes any scrip, debenture, bill, note, warrant, order, or other security for the payment of money, or any accountable receipt, release, or discharge, or any receipt or other instrument evidencing the payment of money, or the delivery of any chattel personal.

(2) References in this Act to any Act in force at the commencement of this Act shall be held to include a reference to that Act as amended, extended, or applied by any other Act.

(3) References in this Act to any Government department shall in relation to any functions performed by that department be held to include references to any other Government department by which the same functions were previously performed.

19. Savings.—(1) Where an offence against this Act also by virtue of some other Act subjects the offender to any forfeiture or disqualification, or to any penalty other than penal servitude or imprisonment or fine, the liability of the offender to punishment under this Act shall be in addition to and not in substitution for his liability under such other Act.

(2) Where an offence against this Act is by any other Act, whether passed before or after the commencement of this Act, made punishable on summary conviction, proceedings may be taken either under such other Act or under this Act: Provided that where such an offence was at the commencement of this Act punishable only on summary conviction, it shall remain only so punishable.

20. Repeals.—The enactments specified in the schedule to this Act are hereby repealed as to England and Ireland to the extent specified in the third column of that schedule.

21. Extent.—This Act shall not extend to Scotland.

22. Short title and commencement.—This Act may be cited as the Forgery Act, 1913, and shall come into operation on the first day of January one thousand nine hundred and fourteen.

SCHEDULE

[contains a list of Enactments Repealed].

CHAPTER 28.

[MENTAL DEFICIENCY ACT, 1913.]

An Act to make further and better provision for the care of Feeble-minded and other Mentally Defective Persons and to amend the Lunacy Acts.

15th August 1913.

Be it enacted, &c.:

PART I.

POWER AND MANNER OF DEALING WITH DEFECTIVES.

Powers of dealing with defectives.

1. Definition of defectives.—The following classes of persons who are mentally defective shall be deemed to be defective within the meaning of this Act:—

- (a) Idiots; that is to say, persons so deeply defective in mind from birth or from an early age as to be unable to guard themselves against common physical dangers;
- (b) Imbeciles; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to idiocy, yet so pronounced that they are incapable of managing themselves or their affairs, or, in the case of children, of being taught to do so;
- (c) Feeble-minded persons; that is to say, persons in whose case there exists from birth or from an early age mental defectiveness not amounting to imbecility, yet so pronounced that they require care, supervision, and control for their own protection or for the protection of others, or, in the case of children, that they by reason of such defectiveness appear to be permanently incapable of receiving proper benefit from the instruction in ordinary schools;
- (d) Moral imbeciles; that is to say, persons who from an early age display some permanent mental defect coupled with strong vicious or criminal propensities on which punishment has had little or no deterrent effect.

2. Circumstances rendering defectives subject to be dealt with.—(1) A person who is a defective may be dealt with under this Act by being sent to or placed in an institution for defectives or placed under guardianship—

- (a) at the instance of his parent or guardian, if he is an idiot or imbecile, or at the instance of his parent if, though not an idiot or imbecile, he is under the age of twenty-one; or
- (b) if in addition to being a defective he is a person—
 - (i) who is found neglected, abandoned, or without visible means of support, or cruelly treated; or
 - (ii) who is found guilty of any criminal offence, or who is ordered or found liable to be ordered to be sent to a certified industrial school;
 - (iii) who is undergoing imprisonment (except imprisonment under civil process), or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school, or in an inebriate reformatory or who is detained in an institution for lunatics or a criminal lunatic asylum; or
 - (iv) who is an habitual drunkard within the meaning of the Inebriates Acts, 1879 to 1900; or
 - (v) in whose case such notice has been given by the local education authority as is herein-after in this section mentioned; or
 - (vi) who is in receipt of poor relief at the time of giving birth to an illegitimate child or when pregnant of such child.

- (2) Notice shall, subject to regulations made by the Board of Education, to be laid before Parliament as hereinafter provided, be given by the local education authority to the local authority under this Act in the case of all defective children over the age of seven:—
 - (a) who have been ascertained to be incapable by reason of mental defect of receiving benefit or further benefit in special schools or classes, or who cannot be instructed in a special school or class without detriment to the interests of the other children, or as respects whom

the Board of Education certify that there are special circumstances which render it desirable that they should be dealt with under this Act by way of supervision or guardianship;

- (b) who on or before attaining the age of sixteen are about to be withdrawn or discharged from a special school or class, and in whose case the local education authority are of opinion that it would be to their benefit that they should be sent to an institution or placed under guardianship.

3. Power to deal with defectives at instance of parent or guardian.—(1) The parent or guardian of a defective who is an idiot or imbecile, and the parent of a defective who though not an idiot or imbecile is under the age of twenty-one, may place him in an institution or under guardianship: Provided that he shall not be so placed in an institution or under guardianship, except upon certificates in the prescribed form signed by two duly qualified medical practitioners, one of whom shall be a medical practitioner approved for the purpose by the local authority or the Board, and, where the defective is not an idiot or imbecile, also signed, after such inquiry as he shall think fit, by a judicial authority for the purposes of this Act, stating that the signatories of the certificate are severally satisfied that the person to whom the certificate relates is a defective and the class of defectives to which he belongs, accompanied by a statement, signed by the parent or guardian, giving the prescribed particulars with respect to him.

(2) Where a defective has been so placed in an institution for defectives or under guardianship, the managers of the institution, or the person under whose guardianship he has been placed, shall, within seven days after his reception send to the Board of Control hereinafter constituted (in this Act referred to as the Board) notice of his reception and such other particulars as may be prescribed.

4. Power to deal with defectives otherwise than at instance of parent or guardian.—A defective subject to be dealt with under this Act otherwise than under paragraph (a) of subsection (1) of section two of this Act may so be dealt with—

- (a) under an order made by a judicial authority on a petition presented under this Act; or
- (b) under an order of a court, in the case of a defective found guilty of a criminal offence, punishable in the case of an adult with imprisonment or penal servitude, or liable to be ordered to be sent to an industrial school; or
- (c) under an order of the Secretary of State, in the case of a defective detained in a prison, criminal lunatic asylum, reformatory or industrial school, place of detention, or inebriate reformatory; but no such order shall be made except in the circumstances and in the manner hereinafter specified.

Requirements as to the making of Orders.

5. Presentation of petitions.—(1) An order of a judicial authority under this Act shall be obtainable upon a private application by petition made by any relative or friend of the alleged defective, or by any officer of the local authority under this Act authorized in that behalf.

(2) Every petition shall be accompanied by two medical certificates, one of which shall be signed by a medical practitioner approved for the purpose by the local authority or the Board, or a certificate that a medical examination was impracticable, and by a statutory declaration made by the petitioner and by at least one other person (who may be one of the persons who gave a medical certificate) stating—

- (a) that the person to whom the petition relates is a defective within the meaning of this Act, and the class of defectives to which he is alleged to belong; and
- (b) that that person is subject to be dealt with under this Act, and the circumstances which render him so subject; and
- (c) whether or not a petition under this Act, or a petition for a reception order under the Lunacy Acts, 1890 to 1911, has pre-

viously been presented concerning that person, and, if such a petition has been presented, the date thereof and the result of the proceedings thereon; and

(d) if the petition is accompanied by a certificate that a medical examination was impracticable, the circumstances which rendered it impracticable.

(3) If a petition is not presented by a relative or by an officer of the local authority, it shall contain a statement of the reasons why the petition is not presented by a relative, and of the connection of the petitioner with the person to whom the petition relates and the circumstances under which he presents the petition.

(4) Where the Board are satisfied that a petition under this section ought to be presented concerning any person, and that the local authority have refused or neglected to cause a petition to be presented, they may direct an inspector or other officer to present a petition, and this section shall apply accordingly.

6. Procedure on hearing petitions.]—(1) Upon the presentation of the petition and such documents as aforesaid, the judicial authority shall either visit the person to whom the petition relates or summon him to appear before him.

(2) Proceedings before the judicial authority may, in any case if the judicial authority thinks fit, and shall, if so desired by the person to whom the petition relates, be conducted in private, and in that case no one except the petitioner, the person to whom the petition relates, his parents or guardian and any two persons appointed for the purpose by the person to whom the petition relates, or by his parents or guardian, and the persons signing the medical certificates and the statutory declaration accompanying the petition shall, without leave of the judicial authority, be allowed to be present.

(3) If the judicial authority is satisfied that the person to whom the petition relates is a defective and is also satisfied that he is subject to be dealt with under this Act, the judicial authority may, if he thinks it desirable to do so in the interests of such person, make an order either ordering him to be sent to an institution the managers of which are willing to receive him, or appointing a suitable person to be his guardian, and the order shall state the class of defective to which he belongs, and the circumstances which render him subject to be dealt with under this Act:

Provided that—

(a) where the petition is not presented by the parent or guardian, the order shall not be made without the consent in writing of the parent or guardian, unless it is proved to the satisfaction of the judicial authority that such consent is unreasonably withheld, or that the parent or guardian cannot be found, but consent shall not be deemed to be unreasonably withheld if withheld with the bona fide intention of benefiting the defective; and

(b) nothing in this section shall prevent an order being made, notwithstanding that the person to whom the petition relates does not appear to the judicial authority to belong to the class of defectives to which he is in the petition alleged to belong, if the judicial authority is satisfied that he is a defective.

(4) If the judicial authority is not satisfied that the person to whom the petition relates is a defective, and subject to be dealt with under this Act, or that it is desirable in the interests of such person that an order should be made, the judicial authority may, if he thinks fit, adjourn the case for a period not exceeding fourteen days for further evidence or information, and may order that the person to whom the petition relates shall submit himself to medical examination, or may dismiss the petition:

Provided that, unless the petition is dismissed, the judicial authority shall order a medical examination in any case where the petition was accompanied by a certificate that a medical examination was impracticable.

7. Variation of orders.]—(1) Where an order has been made that a defective be placed under guardianship the judicial authority which made

the order, or any other judicial authority, or, where the original order was not made by a judicial authority, any judicial authority may, on application being made for the purpose by the guardian or by the Board or by the local authority, and on being satisfied that the case is or has become one unsuitable for guardianship, order that the defective be sent to an institution.

(2) A person appointed to be guardian of a defective may, on the application of the local authority or of the Board or of any other person who appears to be interested, be removed from his office by any such judicial authority as aforesaid, and where a person appointed to be guardian of a defective dies, or resigns his office, or is removed from his office, such judicial authority as aforesaid may, on the like application, appoint a suitable person to act in his stead.

(3) An order under this section shall not be made without giving to the local authority and, where practicable, to the relative or other person who presented the original petition and to the parent or guardian of the defective, an opportunity of being heard.

8. Procedure in cases of persons guilty of offence, &c.]—(1) On the conviction by a court of competent jurisdiction of any person of any criminal offence punishable in the case of an adult with penal servitude or imprisonment, or on a child brought before court under section fifty-eight of the Children Act, 1908, being found liable to be sent to an industrial school, the court, if satisfied on medical evidence that he is a defective within the meaning of this Act, may either—

(a) postpone passing sentence or making an order for committal to an industrial school, and direct that a petition be presented to a judicial authority under this Act with a view to obtaining an order that he be sent to an institution or placed under guardianship; or

(b) in lieu of passing sentence or making an order for committal to an industrial school, itself make any order which if a petition had been duly presented under this Act the judicial authority might have made, which order shall have the like effect as if it had been made by a judicial authority on a petition under this Act:

Provided that, if the court is a court of summary jurisdiction and the case is one which the court has power to deal with summarily, the court, if it finds that the charge is proved, may give such directions or make such order as aforesaid without proceeding to a conviction, and such a person shall for the purposes of this Act be deemed to be a person found guilty of an offence.

(2) The court may act either on the evidence given during the trial or other proceedings, or may call for further medical or other evidence.

(3) Where the court so directs a petition to be presented against a person, it may order him to be detained in an institution for defectives or in a place of safety for such time as is required for the presentation of the petition and the adjudication thereof.

(4) Where it appears to any court of summary jurisdiction by which a person charged with an offence is remanded or committed for trial that such person is a defective, the court may order that pending the further hearing or trial he shall be detained in an institution for defectives, or be placed under the guardianship of any person on that person entering into a recognisance for his appearance.

(5) Where it appears to the police authority that any person charged with an offence is a defective, they shall communicate with the local authority, and it shall be the duty of the police authority to bring before the court such evidence as to his mental condition as may be available:

Provided that, where it is intended to bring such evidence before the court, the police authority shall give notice of the intention to the person charged, and to his parent or guardian, if known.

9. Procedure in case of defectives undergoing imprisonment, &c.—Where the Secretary of State is satisfied from the certificate of two duly qualified medical practitioners that any person

who is undergoing imprisonment (except imprisonment under civil process) or penal servitude, or is undergoing detention in a place of detention by order of a court, or in a reformatory or industrial school or in an inebriate reformatory, or who is detained in a criminal lunatic asylum, is a defective, the Secretary of State may order that he be transferred therefrom and sent to an institution for defectives, the managers of which are willing to receive him, or that he be placed under guardianship, and any order so made shall have the like effect as if it had been made by a judicial authority on petition under this Act.

Effect and Duration of Orders, &c.

10. Effect of orders.]—(1) An order that a defective be sent to an institution shall authorise the conveyance of that person to and his reception in the institution mentioned in the order, at any time within fourteen days (or, if the person is in a place of safety, within twenty-one days) after the date of the order, and his detention in that institution for such period as is hereinafter mentioned, and he shall be liable to be detained in the institution accordingly.

(2) An order that a defective be placed under guardianship shall, subject to regulations made by the Secretary of State, confer on the person named in the order as guardian such powers as would have been exercisable if he had been the father of the defective and the defective had been under the age of fourteen, and the guardian shall also have power to warn persons against supplying intoxicants to him or for his use.

11. Duration of detention under orders.]—(1) An order made under this Act that a defective be sent to an institution or placed under guardianship shall expire at the end of one year from its date, unless continued in manner herein-after provided:

Provided that in the case of any institution the Board may by order direct that orders that persons be sent thereto shall, unless continued as hereinafter provided, expire on the quarter day next after the day on which the orders would have expired under the above provision.

(2) An order shall remain in force for a year after the date when under the preceding provisions of this section it would have expired, and thereafter for successive periods of five years, if at that date and at the end of each period of one and five years respectively the Board, after considering such special reports and certificate as is hereinafter mentioned and the report of any duly qualified medical practitioner who, at the request of the defective or his parent or guardian or any relative or friend, has made a medical examination of the defective and the means of care and supervision which would be available if the defective were discharged, consider that the continuance of the order is required in his interests and make an order for the purpose:

Provided that, where a defective was, at the time of being sent to the institution or placed under guardianship, under twenty-one years of age, the case shall be reconsidered by the visitors appointed under this Act within three months after he attains the age of twenty-one years.

(3) On such reconsideration the visitors shall visit the defective or summon him to attend before them and inquire into his mental condition and the means of care and supervision which would be available if he were discharged and into all the circumstances of the case, and, if it appears to them that further detention in an institution or under guardianship is no longer required in the interests of the defective himself, shall order him to be discharged:

Provided that, if the visitors do not order his discharge, the defective or his parent or guardian may, within fourteen days after the decision of the visitors has been communicated to the defective and his parent or guardian, appeal to the Board.

(4) The special reports above mentioned shall be—

(a) A special report by the visitors made within one month after having seen the defective as to his mental condition and the means of care and supervision which

would be available if he were discharged, and stating whether, in the opinion of the visitors, the defective is still a proper person to be detained in his own interest in an institution or under guardianship; and

- (b) A special report as to the mental and bodily condition of the defective made, in the case of a person detained in an institution, by the medical officer of that institution, and in any other case by a duly qualified medical practitioner, and shall be accompanied by a certificate that the defective is still a proper person to be detained in his own interest in an institution or under guardianship, and the person sending the special report shall give to the Board such further information concerning the defective to whom the special report relates as they may require.

(5) A certificate under the hand of the secretary to the Board that an order has been continued to the date therein mentioned shall be sufficient evidence of the fact.

12. Duration of detention not under orders.—(1) Where a defective has been placed by his parent or guardian in an institution or under guardianship, it shall be lawful for such parent or guardian to withdraw him from the institution or guardianship at any time on giving notice in writing for the purpose to the Board, unless the Board, after considering what means of care and supervision would be available if he were discharged, determine within fourteen days after receiving the notice that the further detention of the defective in the institution or under guardianship is required in the interests of the defective, and, where the Board have so determined, no further notice by the parent or guardian shall be allowed till after the expiration of six months from the last previous notice.

(2) Subject to the foregoing provisions of this section, a defective who has been placed by his parent or guardian in an institution or under guardianship may be detained in the institution or under guardianship, and the case shall be reconsidered by the Board at like intervals and by the visitors, as if he had been ordered to be sent to the institution or placed under guardianship, and the provisions of the last foregoing section shall apply accordingly.

(3) The managers of any certified institution, or house, or any approved home may discharge any defective placed there by his parent or guardian or giving one month's notice to the board and to the parent or guardian of the defective if known.

Supplemental.

13. Power to recover expenses.—(1) Where an order that a defective be sent to an institution or be placed under guardianship has been made under this Act, the judicial authority which made the order or any other judicial authority, or, where the order is not made by a judicial authority, any judicial authority, may, on the application of the petitioner, or of the managers of the institution or the guardian, as the case may be, or of an officer authorised by the local authority, make an order requiring the defective, or any person liable to maintain him, to contribute such sum towards the expenses of his maintenance in the institution or of his guardianship, and any charges incidental thereto, including the cost of his conveyance to the institution, and in the event of his death in the institution his funeral expenses, as, having regard to the ability of the defective or person liable to maintain him, seems reasonable.

(2) Any such order may, on the application of the managers of the institution in which the defective is for the time being detained, or of the guardian, or of an officer authorised by the local authority, be enforced against any property of the defective or person liable to maintain him, if made by a judge of county courts, in the same way as if it were a judgment of the county court, and, if made by any other judicial authority, as if it were an order for the payment of a civil debt made by a court of summary jurisdiction.

(3) An order made under this section may be

varied or revoked by the judicial authority which made it, or any other judicial authority.

(4) Where a defective has been placed by his parent or guardian in an institution or under guardianship, any sum which the parent or guardian has agreed in writing to contribute towards the expenses of the maintenance or guardianship of the defective shall be recoverable summarily as a civil debt.

14. Provision as to contribution orders.—The persons liable to maintain a defective under the age of twenty-one against whom an order to contribute towards his maintenance may be made under this Act shall include in the case of illegitimacy his putative father and, if the judicial authority having cognisance of the case thinks fit, a person other than his putative father cohabiting with his mother: Provided that, where a defective is an illegitimate, and an affiliation order for his maintenance has previously been made on the application of his mother under the enactments relating to bastardy, the judicial authority shall not (unless in view of the special circumstances of the case he thinks it desirable) make an order for contribution against the putative father, but may order the whole or any part of the payments accruing due under the affiliation order to be made to the local authority or such other person as may be named in the order, to be applied towards the maintenance of the defective.

15. Power to remove to place of safety pending presentation of petition.—(1) If any officer of the local authority authorised in that behalf or any constable finds neglected, abandoned, or without visible means of support or cruelly treated any person whom he has reasonable cause to believe to be a defective, he may take such person to a place of safety, and such person may be there detained until a petition under this Act can be presented.

(2) If it appears to a justice on information on oath laid by an officer or other person authorised by the local authority that there is reasonable cause to believe that a defective is neglected or cruelly treated in any place within the jurisdiction of the justice, the justice may issue a warrant authorising any constable named therein, accompanied by the medical officer of the local authority or any other duly qualified medical practitioner named in the warrant, to search for such person, and, if it is found that he is neglected or cruelly treated, and is apparently defective, to take him to and place him in a place of safety until a petition can be presented under this Act, and any constable authorised by such warrant may enter, and if need be by force, any house, building, or other place specified in the warrant, and may remove such person therefrom.

(3) Where the place to which such a person is taken is a workhouse, the master shall receive him into the workhouse if there is suitable accommodation therein, and any expenses incurred in respect of him shall be defrayed by the local authority, but shall, if an order is eventually made, be recoverable from the defective or any person liable to maintain him as if they were part of the expenses of his maintenance.

16. Transfers from institutions for defectives to institutions for lunatics and vice versa.—(1) Where the mental condition of a person detained in an institution for defectives becomes or is found to be such that he ought to be transferred to an institution for lunatics, the Board, or the managers of the institution for defectives with the consent of the Board, shall cause such steps to be taken as may be necessary for having a reception order under the Lunacy Acts, 1890 to 1911, made in respect of him and for his removal to an institution for lunatics: Provided that, where such person has been placed in the institution by his parent or guardian, the Board or managers, as the case may be, shall not cause such steps to be taken until they have given the parent or guardian, wherever practicable, an opportunity of taking them himself.

(2) Where the mental condition of a person detained in an institution for lunatics is found to be such that he ought to be transferred to an institution for defectives, the Board, or the

managers of the institution for lunatics with the consent of the Board, may cause such steps to be taken as may be necessary for having an order that he be sent to an institution for defectives made under this Act in respect of him and for his removal to such institution.

(3) The Board may, subject to the approval of the Secretary of State, make regulations for carrying this section into effect.

17. Provisions as to religious persuasion.

(1) The judicial authority, court, or Secretary of State, in determining the institution to which a defective is to be sent under an order, shall endeavour to ascertain the religious persuasion to which the defective belongs, and the order shall, where practicable, specify the religious persuasion to which he appears to belong, and an institution conducted in accordance with that persuasion shall, where practicable, be selected.

(2) A minister of the religious persuasion specified in the order as that to which the defective appears to belong may visit the defective at the institution on such days, at such times, and on such conditions as may be fixed by the Board, for the purpose of affording religious assistance and also for the purpose of instructing him in the principles of his religion.

(3) Where a defective is sent to an institution which is not conducted in accordance with the religious persuasion to which the defective belongs, the defective shall not be compelled to receive religious instruction or religious ministrations which are not in accordance with his religious persuasion, but shall, as far as practicable, have facilities for receiving religious instruction and attending religious services conducted in accordance with his religious persuasion.

(4) Where an order is made for sending a defective to an institution which is not conducted in accordance with the religious persuasion to which he belongs, the nearest adult relative, or in the case of a child his guardian or person entitled to his custody, may apply to the Board to remove or send the defective to an institution conducted in accordance with the defective's religious persuasion, and the Board shall, on proof of the defective's religious persuasion, comply with the request of the applicant: Provided that the applicant must show to the satisfaction of the Board that the managers of the institution named by him are willing to receive the defective and that the institution is one suitable to the case.

18. Provisions as to visiting of defectives.

The nearest adult relative or the guardian of a defective in an institution or under guardianship under this Act shall be entitled to visit the defective at such times and at such intervals (not exceeding six months) and on such conditions as may be prescribed, except where, owing to the character and antecedents of the person proposing to visit the defective, the Board consider that such a visit would be contrary to the interests of the defective.

19. Judicial authorities.—(1) Any judge of county courts, police or stipendiary magistrate, or specially appointed justice who is a judicial authority for the purposes of the Lunacy Acts, 1890 to 1911, shall be a judicial authority for the purposes of this Act, and the number of justices specially appointed to be judicial authorities under those Acts shall be such as may be considered necessary to exercise the powers conferred by this Act as well as by those Acts on a judicial authority.

(2) Every judicial authority shall, in the exercise of the jurisdiction conferred by this Act, have the same jurisdiction and power as regards the summoning and examination of witnesses, the administration of oaths, costs, and otherwise, as if he were acting in the exercise of his ordinary jurisdiction, and shall be assisted, if he so requires, by the same officers as if he were so acting, and their assistance under this Act shall be considered in fixing their remuneration.

20. Regulations as to procedure, forms, &c.—The Secretary of State may make regulations with respect to—

(a) the procedure on petitions under this Act;

- (b) the procedure on applications for orders to vary or revoke orders previously made under this Act;
- (c) the procedure on applications for orders for contributions towards the maintenance of a person in an institution or under guardianship;
- (d) the procedure on the reconsideration by visitors of the cases of defectives on their attaining the age of twenty-one, and on appeals from the visitors to the Board;
- (e) the forms of petitions, statutory declarations, certificates, orders, and other documents required for the purposes of this Part of this Act.

PART II.

CENTRAL AND LOCAL AUTHORITIES.

Central Authority.

21. Central authority.] The Board of Control hereinafter constituted shall, subject to the provisions of this Act, be charged with the general superintendence of matters relating to the supervision, protection, and control of defectives:

Provided that, save as otherwise expressly provided by this Act, nothing in this Act shall affect any power exercisable with respect to lunatics by the Lord Chancellor or the Commissioners in Lunacy, or the Judge or Masters in Lunacy, or by any visitors, court, local authority or other persons, whether under the Lunacy Acts, 1890 to 1911, or otherwise.

22. Establishment of Commissioners.]—(1) There shall be constituted a Board of Control consisting of not more than fifteen Commissioners, of whom not more than twelve shall be paid Commissioners, and of the paid Commissioners four shall be legal Commissioners (that is to say, practising barristers or solicitors of at least five years' standing) and four at least shall be medical Commissioners (that is to say, duly qualified medical practitioners of at least five years' standing) and at least one of the paid and one of the unpaid Commissioners shall be a woman.

(2) The Commissioners shall be appointed by His Majesty on the recommendation, as respects the legal Commissioners, of the Lord Chancellor, and, as respects the other Commissioners, of the Secretary of State; and in making such recommendation regard shall be had to the desirability of the inclusion amongst the Commissioners of persons specially qualified to hold inquiries amongst Welsh-speaking persons.

(3) The Secretary of State shall appoint one of the Commissioners to be chairman.

(4) The Board of Control so constituted shall be a body corporate by the name of "the Board of Control," with a common seal and with power to hold land without licence in mortmain for the purposes of their powers and duties.

(5) If the Secretary of State so directs and subject to any regulations made by him, the Board shall appoint an administrative committee, and to such committee shall be entrusted such of the administrative powers and duties of the Board as are mentioned in the Schedule to this Act.

(6) Subject as aforesaid, any act or thing required or authorized by this Act to be done by the Board or the Commissioners may be done by any one or more of the Commissioners as the Secretary of State may by general or special order direct.

(7) There shall be paid to the Chairman and to such number, not exceeding eleven, of the Commissioners as the Secretary of State, with the consent of the Treasury, may determine, such salaries or other remuneration as the Secretary of State, with the like consent, may fix: Provided that, in the case of the Chairman, such salary shall not exceed eighteen hundred pounds a year, and, in the case of the Commissioners other than the Chairman, such salary shall not exceed the sum of fifteen hundred pounds a year, but may begin at such lower sum as the Secretary of State with the consent of the Treasury may fix.

(8) The Chairman and paid Commissioners shall hold office during His Majesty's pleasure. The unpaid Commissioners shall hold office for such term as the Secretary of State may determine.

(9) The persons who immediately before the

commencement of this Act hold office as paid Commissioners in Lunacy, shall, by virtue of their office, become as from the commencement of this Act paid Commissioners of the Board of Control, and shall, notwithstanding anything in this section, continue to hold their offices by the like tenure and be entitled to the like salary as if they continued to hold the same offices as they held before the commencement of this Act.

23. Secretary, inspectors, and officers.]—(1) The Board shall be assisted in the performance of their duties by a secretary and by such inspectors and other officers and servants as the Secretary of State, with the consent of the Treasury as to number, may determine. Such inspectors and other officers and servants shall include women as well as men.

(2) The secretary, inspectors, and other officers and servants shall be appointed by the Board, subject to the approval of the Secretary of State.

(3) There shall be paid to the secretary, inspectors, officers, and servants of the Board such salaries or remuneration as the Secretary of State, with the consent of the Treasury, may determine.

24. Disqualifications.]—(1) A person shall not be qualified to be a Commissioner, or an inspector, secretary, officer, or servant of the Board, if he is directly or indirectly interested in any certified institution or house, or approved home under this Act, or in any house licensed under the Lunacy Acts, 1890 to 1911, and any Commissioner, inspector, secretary, or officer who becomes so interested shall be disqualified to hold office.

(2) If any person holding any such office as aforesaid acts when he is disqualified under the provisions of this section, he shall be guilty of a misdemeanour.

25. General powers and duties of Commissioners.]—(1) Subject to regulations made by the Secretary of State, the Board shall—

- (a) exercise general supervision, protection, and control over defectives;
- (b) supervise the administration by local authorities of their powers and duties under this Act;
- (c) certify, approve, supervise, and inspect institutions, houses, and homes for defectives, and all arrangements made for the care, training, and control of defectives therein;
- (d) visit, either through one or more Commissioners or through their inspectors, defectives in institutions and certified houses and approved homes, or under guardianship, or (with a view to their certification) elsewhere, and persons who have been placed under the care of any person as being defectives;
- (e) provide and maintain institutions for defectives of dangerous or violent propensities;
- (f) to take such steps as may be necessary for ensuring suitable treatment of cases of mental deficiency;
- (g) make annual reports (to be presented to Parliament) and such special reports as the Secretary of State may from time to time require;
- (h) administer, in accordance with this Act, grants made out of money provided by Parliament under this Act.

(2) Without prejudice to their powers and duties under any regulations which the Secretary of State may make for further or more frequent inspection and visitation, it shall be the duty of the Board, through one or more Commissioners, to inspect every certified institution, certified house, and approved home at least once in each year, and either through themselves or their inspectors to inspect every certified institution, certified house, and approved home one additional time in each year and every defective under guardianship, at least twice in every year, and any Commissioner shall have power to discharge at any time any person detained in a certified institution or certified house or under guardianship under this Act:

Provided that a Commissioner shall not exercise such power of discharge without the consent

of the Secretary of State in the case of a person sent to such an institution by order of the Secretary of State from a prison, criminal lunatic asylum, place of detention, reformatory or industrial school, or inebriate reformatory, so long as the term for which he was committed to the prison or other place from which he was transferred remains unexpired.

26. Expenses of central authorities.] The salaries or other remuneration of the Commissioners and the officers of the Board, and any other expenses incurred by the Secretary of State or the Board in carrying this Act into effect, to such amount as may be sanctioned by the Treasury shall be defrayed out of moneys provided by Parliament.

Local Authorities.

27. Local authorities.] The local authority for the purposes of this Act shall, as respects a county, be the council of the county, and, as respects a county borough, be the council of the borough.

28. Committees for the care of defectives.]—(1) Every local authority shall constitute a committee for the purposes of this Act, hereinafter called the committee for the care of the mentally defective, consisting of such members of the council appointed by the council as the council may determine, and of such persons, not being members of the council, but being poor law guardians or other persons having special knowledge and experience with respect to the care, control, and treatment of defectives, appointed by the council as the council may determine, and of the persons so appointed some shall be women, and of the whole committee the majority shall be members of the council:

Provided that, where a local authority has appointed one or more visiting committees or asylums committees under the Lunacy Acts, 1890 to 1911, then, if the council so determine—

(a) the members of such committee or committees shall, with the addition of at least two women, act also as the committee for the care of the mentally defective; or

(b) the members of such committee or committees shall be the members of the council appointed by the council to be members of the committee for the care of the mentally defective.

(2) All matters relating to the exercise by the local authority of their powers under this Act (except the power of raising a rate or borrowing money) shall stand referred to the committee for the care of the mentally defective, and the local authority before exercising any such powers shall, unless in their opinion the matter is urgent, receive and consider the report of the committee with respect to the matter in question. The local authority may also delegate to the committee, with or without any restrictions as they think fit, any of their powers under this Act, except the power of raising a rate or borrowing money.

(3) A person shall be disqualified for being a member of the committee for the care of the mentally defective who by reason of holding an office or place of profit, or having any share or interest in a contract or employment, is disqualified for being a member of the council appointing the committee, but no such disqualification shall apply to a person by reason only of his holding office in a school or college aided, provided, or maintained by the council.

29. Joint action.]—(1) Where on such application as is hereinafter mentioned it appears to the Secretary of State that two or more local authorities should join for the purpose of the exercise and performance of any of their powers and duties under this Act, the Secretary of State, with the concurrence of the Local Government Board, shall have power by order to make such provisions as appear to him necessary or expedient, by the constitution of a joint committee or joint board or otherwise, for the joint exercise and performance of all or any of the powers under this Act of such local authorities; and any such order may provide how, and in what proportions, and out of what funds or rates, the

expenses incurred in the joint exercise and performance of such powers are to be defrayed, and may contain such incidental, consequential, and supplemental provisions (including provisions adapting any of the provisions of this Act to the case of any committee or board so constituted) as may be necessary for the purposes of the order.

(2) An order under this section for the joint exercise and performance of all or any of the powers under this Act of two or more local authorities may be made on the application of one or more such authorities, but unless all such authorities agree to the making of such order, it shall be provisional only, and shall not have effect unless confirmed by Parliament.

(3) Any such order shall remain in operation for the period (if any) named therein, or, if no period is so named, until it is determined by mutual agreement between the local authorities concerned with the consent of the Secretary of State: Provided that any such order may be revoked or varied by an order made on a like application and subject to the like provisions as the original order.

(4) Sections two hundred and ninety-seven and two hundred and ninety-eight of the Public Health Act, 1875 (which relate to the making of Provisional Orders by the Local Government Board), shall, with the necessary modifications, apply for the purposes of this Act as if they were herein re-enacted and in terms made applicable thereto.

30. General powers and duties of local authorities.]—The local authority are hereby empowered, and it shall be their duty, subject to the provisions of this Act and to regulations made by the Secretary of State—

- (a) to ascertain what persons within the area are defectives subject to be dealt with under this Act otherwise than under paragraph (a) of subsection one of section two of this Act;
- (b) to provide suitable supervision for such persons, or if such supervision affords insufficient protection, to take steps for securing that they shall be dealt with by being sent to institutions or placed under guardianship in accordance with this Act;
- (c) to provide suitable and sufficient accommodation for such persons when sent to certified institutions by orders under this Act, and for their maintenance therein, and for the conveyance of such persons to and from such institutions;
- (d) to make provision for the guardianship of such persons when placed under guardianship by orders under this Act;
- (e) if they think fit, to maintain in an institution or approved home or contribute towards the expenses of maintenance in an institution or approved home or the expenses of guardianship of any defectives other than aforesaid;
- (f) if they think fit, to provide for the burial of persons dying in an institution or when placed under guardianship in accordance with this Act;
- (g) to appoint or employ sufficient officers and other persons to assist them in the performance of their duties under this Act;
- (h) to make to the Board annual reports and such other reports as the Board may require:

Provided that—

- (i) nothing in this Act shall be construed as imposing any obligation on a local authority to perform the duties mentioned in paragraphs (b), (c), (d), and (g) aforesaid where the contribution out of moneys provided by Parliament under this Act towards the cost on income account of performing such duties is less than one half of the net amount (as approved by the Board) of such cost;
- (ii) nothing in this Act shall affect the powers and duties of poor law authorities under the Acts relating to the relief of the poor, with respect to any

defectives who may be dealt with under those Acts; nor the right of poor law authorities to receive the same grant for a defective who has been, or may be, sent to an institution, that they would have received if the Idiots Act, 1886, had not been repealed; nor shall local authorities under this Act have any duties with respect to defectives who for the time being are being provided for by such authorities as aforesaid, except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Local Government Board;

- (iii) nothing in this Act shall affect the powers and duties of local authorities under the Lunacy Acts, 1890 to 1911, with respect to any defectives who may be dealt with under those Acts, nor shall local authorities under this Act have any duties or powers with respect to defectives who for the time being are, or who might be, provided for by such authorities as aforesaid except to such extent as may be prescribed by regulations made by the Secretary of State with the concurrence of the Lord Chancellor;
- (iv) nothing in this Act shall affect the duties or powers of local education authorities under the Education Acts; and the duty of ascertaining what children over the age of seven and under the age of sixteen (hereinafter referred to as defective children) are defectives shall rest with the local education authority as hereinafter provided and not with the local authority under this Act; and such last-mentioned authorities shall have no duties as respects defective children, except those whose names and addresses have been notified to them by the local education authority under the provisions of this Act.

31. Duties of local education authorities.]—(1) The duties of a local education authority shall include a duty to make arrangements, subject to the approval of the Board of Education,—

- (a) for ascertaining what children within their area are defective children within the meaning of this Act;
- (b) for ascertaining which of such children are incapable by reason of mental defect of receiving benefit or further benefit from instruction in special schools or classes;
- (c) for notifying to the local authority under this Act, the names and addressees of defective children with respect to whom it is the duty of the local education authority to give notice under the provisions hereinbefore contained.

In case of doubt as to whether a child is or is not capable of receiving such benefit as aforesaid, or whether the retention of a child in a special school or class would be detrimental to the interests of the other children, the matter shall be determined by the Board of Education.

(2) The provisions of section one of the Elementary Education (Defective and Epileptic Children) Act, 1899, shall apply with the necessary modifications for the purposes of this section.

32. Power of Secretary of State to act in default.]—(1) If the Board report to the Secretary of State that a local authority have made default in the performance of any of their duties under this Act, the Secretary of State may, after holding a local inquiry in any case where he deems it desirable to do so, and on being satisfied that such default has taken place, by order require the local authority to do such acts and things for remedying the default as he may direct, and any such order may be enforced by mandamus.

(2) Any expenses incurred by or on behalf of the Secretary of State under any such order or in respect of any such default, or in respect of any such inquiry, shall, if the Secretary of State so directs, be expenses of the local authority,

and the treasurer or other proper officer of the local authority shall pay the amount of such expenses to the Secretary of State within two months after demand, and in default of payment the amount thereof shall be recoverable as a debt due to the Crown.

(3) An order of the Secretary of State shall be conclusive in respect of any default, amount of expenses, and any other matter therein stated or appearing; but nothing in this provision shall prejudice or affect the right or power of the Secretary of State or any other authority or person to take any other proceedings for requiring a local authority to perform their duties under this Act.

33. Expenses and borrowing by local authorities.]—(1) The expenses of a local authority under this Act shall be defrayed, in the case of a county council out of the county fund, and in the case of a county borough council out of the borough fund or borough rate, or, if no borough rate is levied, out of a separate rate to be made, assessed, and levied in like manner as the borough rate:

Provided that the expenses incurred by a local authority in the exercise of their powers under this Act for purposes other than the fulfilment of their obligations under this Act shall not in any one year exceed an amount equal to that which would be produced by a rate of one half-penny in the pound on the property liable to be assessed for the purpose as assessed for the time being for the purposes of that rate.

(2) A local authority may borrow for the purposes of this Act in the case of a county council, as for the purposes of the Local Government Act, 1888, and in the case of a county borough council, as for the purposes of the Public Health Acts; but in the application of section sixty-nine of the Local Government Act, 1888, to money borrowed by a county council under this Act a period not exceeding sixty years shall be substituted for a period not exceeding thirty years as the maximum period within which money borrowed is to be repaid, and the money borrowed by a county borough council shall be borrowed on the security of the fund or rate out of which the expenses of the council under this Act are payable.

(3) Money borrowed under this Act shall not be reckoned as part of the total debt of a county for the purposes of section sixty-nine of the Local Government Act, 1888, or as part of the debt of a county borough for the purposes of the limitation on borrowing under subsections (2) and (3) of section two hundred and thirty-four of the Public Health Act, 1875.

(4) Separate accounts shall be kept by the council of a county borough of their receipts and expenditure under this Act.

34. Special provisions as to Lancashire.] The Lancashire Asylums Board shall, as respects the county of Lancaster and the county boroughs represented on the said Board, be the local authority for the purposes of this Act for that county and those county boroughs, and the provisions of the Lancashire County (Lunatic Asylums and other Powers) Act, 1891, as to expenses, borrowing, accounts, and audit shall apply accordingly in substitution for the provisions as to the like matters contained in this Act.

PART III.

CERTIFICATION AND PROVISION OF INSTITUTIONS, &c.

35. State institutions.]—(1) The Board, subject to the approval of the Secretary of State, may establish and maintain institutions for defectives of dangerous or violent propensities (in this Act referred to as State institutions), and for that purpose the Secretary of State may cause to be transferred to the Board the whole or any part of any building vested in the Prison Commissioners or otherwise under the control of the Secretary of State, or may, with the approval of the Treasury, authorise the Board under this Act either to acquire any land or erect or acquire any building.

(2) For the purposes of this Act, the Board shall be deemed to be the managers of State institutions.

36. Certification of institutions.] The Board may, upon the application of the managers of premises intended for the reception, control, care, and treatment of defectives, if satisfied of the fitness of the premises and of the persons proposing to maintain them for such purposes, grant a certificate to the managers to receive defectives therein, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and an institution so certified is in this Act referred to as a certified institution.

37. Approval of premises provided by boards of guardians.]—(1) On the application of the local authority for any area comprising the whole or any part of a poor law union, the Board may, subject to the consent of the Local Government Board, if satisfied of the special fitness for the detention, care, and training of defectives of any buildings or other premises provided by the board of guardians of that union, either alone or in conjunction with any other board of guardians, approve the premises for the reception of defectives, and thereupon this Act shall apply as if the premises so approved were a certified institution and the guardians were the managers thereof, and, so long as any such premises continue to be so approved, it shall be lawful for the board of guardians in their capacity of managers, subject to the approval of the Local Government Board, to enter into agreements with any local authority as to the reception and maintenance therein of defectives ordered to be sent thereto under this Act, and to receive such defectives accordingly.

(2) Any defective ordered to be sent to any such premises under this Act shall not be deemed to be in receipt of poor law relief by reason that the premises are provided by a board of guardians.

38. Power of local authorities to establish or contribute to institutions.]—(1) A local authority may, subject to the approval of the Secretary of State,—

- (a) undertake or combine with any other local authority in undertaking, or contribute such sums of money upon such conditions as they may think fit towards, the establishment, building, alteration, enlargement, rebuilding, or management of institutions certified or intended to be certified under this Act or the purchase of any land required for the use of a certified institution or for the site of an institution intended to be certified under this Act; and
- (b) contract with the managers of any certified institution for the reception and maintenance in the institution of persons for whose reception and maintenance the local authority are by this Act required or authorised to make provision.

(2) Where plans of any proposed alteration, enlargement, rebuilding or building have been approved by the Secretary of State for the purposes of this section, they shall be carried out without any modifications (except such as the Secretary of State may approve), and no building or site which has been provided by a council or to which they have contributed under this section shall, without the consent of the Secretary of State, be used for any purpose other than that for which it has been approved.

(3) Land may be acquired by a local authority for the purposes of this Act in the case of the council of a county under and in accordance with the Local Government Act, 1888, and in the case of the council of a county borough as for the purposes of the Public Health Acts.

39. Transfer of premises for use as institutions.] Where any premises vested in the Prison Commissioners, any board of guardians, or other public authority are no longer required for the purposes for which they were provided, and the Board of Control are satisfied as to the fitness of the premises for the reception of defectives, the Prison Commissioners, the board of guardians, or other authority may, with the consent of the Secretary of State, the Local Government Board, or other Department of the Government

concerned, lease or grant the use of the premises to any local authority under this Act, or other person, for the purpose of their being used as a certified institution.

40. Visitors of institutions.]—(1) The persons appointed under the Lunacy Acts, 1890 to 1911, to act as visitors of licensed houses, with the addition of one or more women appointed in like manner as such visitors, shall be the visitors of institutions for defectives under this Act, and the number of persons appointed to be visitors of licensed houses under those Acts shall be such as may be considered necessary to perform the duties of visitors of institutions for defectives under this Act as well as the duties of visitors of licensed houses under those Acts, and their duties under this Act shall be taken into consideration in determining the remuneration, if any, of the visitors and clerks to visitors.

(2) In all places where no persons are so appointed to act as visitors of licensed houses a sufficient number of persons, possessing the like qualifications as such visitors, with the addition of one or more women, shall be appointed in like manner as such visitors to act as visitors of institutions for defectives, and a clerk to such visitors shall be appointed in like manner as in the case of the clerk to the visitors appointed under the Lunacy Acts, 1890 to 1911, and the expenses of visitors so appointed, including the remuneration, if any, of any visitors and clerks to visitors, shall be defrayed in like manner as the expenses of visitors under the Lunacy Acts, 1890 to 1911.

(3) The visitors of institutions for defectives shall perform such functions as are assigned to them by this Act and such further functions in connection with the visitation of institutions and of the patients therein, and of defectives under guardianship, and with respect to the discharge of such defectives and their after care and otherwise, as may be assigned to them by regulations of the Secretary of State under this Act.

41. Regulations as to management of institutions for defectives, &c.]—(1) The Secretary of State may make regulations as to—

- (a) the granting, transfer, renewal, revocation, and resignation of certificates for institutions;
- (b) the management of institutions;
- (c) the classification and treatment of patients in institutions, their instruction, and their employment in suitable occupations, and the reports to be made as to their mental condition and otherwise in respect of them;
- (d) the inspection of institutions and the visitation of patients therein by the Board and inspectors and other persons;
- (e) the notification to the Board of the admission of a patient to an institution;
- (f) the transfer of patients from one certified institution to another, and from a State institution to a certified institution, and, in cases appropriate to State institutions, from a certified institution to a State institution;
- (g) the discharge of patients from institutions;
- (h) the absence of patients from institutions under licence or temporarily without licence;
- (i) the notifications to be made by the managers in the event of the outbreak of an infectious disease in an institution and in the event of the death of a patient in an institution or absent therefrom under licence;
- (j) the conveyance of persons to and from institutions;
- (k) the burial of persons dying in institutions;
- (l) the powers and duties of persons appointed guardians of defectives under this Act; the reports to be made by such guardians as to defectives under their guardianship; the visitation of such defectives; and their discharge from guardianship;
- (m) the granting, renewal, and revocation of approval of homes for defectives;

- (n) the holding of inquiries and any other matter necessary or proper for the carrying into effect of the provisions of this Act with respect to institutions, and the inmates thereof, and to guardianship;
- (o) the application, as respects any matters to be dealt with by regulations, of any of the provisions of the Lunacy Acts, 1890 to 1911, dealing with the like matters, subject to the necessary modifications and adaptations;
- (p) the study of improved methods of treating mental deficiency.

(2) The regulations made under this section shall make applicable as respects institutions and the patients therein the provisions of sections forty, forty-one, forty-two, forty-seven, and fifty-three of the Lunacy Act, 1890:

Provided that nothing in this subsection shall be construed as restricting any power of the Secretary of State under subsection (1) of this section.

42. Apprehension of defectives escaping.] If a patient in an institution or absent from an institution under licence or without a licence escapes, he may be apprehended without warrant by any constable or by the managers of the institution or any person authorised by them in writing, and brought back to the institution.

43. Ascertainment of local authority responsible for providing accommodation, &c.]—(1) Where a person is ordered to be sent to a certified institution or to be placed under guardianship, the local authority responsible for providing accommodation for that person or making provision for his guardianship, as the case may be, shall be the council of the county or county borough in which he resided (to be specified in the order), and the duties of that council shall include, in the case of a person ordered to be sent to a certified institution, the duty to provide for his conveyance to, and reception and maintenance in, such an institution.

(2) An order that a person be sent to an institution or placed under guardianship shall not, where a council will by virtue of this Act become responsible for providing for the conveyance, reception and maintenance of that person in an institution, or making provision for his guardianship, as the case may be, be made unless that council have been given an opportunity of being heard, or, if the order is made by the Secretary of State, of making representations to him, and, if room is available in an institution, suitable for the defective, provided by the responsible authority, an order shall not, without the consent of that authority, be made for sending the defective to any other institution.

(3) The council responsible under this section for the maintenance of a person in a certified institution shall continue responsible for his maintenance in the event of his transfer to another such institution, and shall be responsible for his conveyance on his transfer from the one institution to the other; and the council responsible under this section for making provision for the guardianship of a person placed under guardianship shall, in the event of his being sent to a certified institution under an order varying the original order, be responsible for his conveyance to, and his reception and maintenance in, such an institution.

44. Determination of residence.]—(1) Where the order is made in respect of a person found guilty of an offence, that person shall for the purposes of the provisions of the last preceding section be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place:

Provided that, where the order is made by a court of assize or quarter sessions, the court shall remit to a court of summary jurisdiction for the place where the person is committed for trial the determination of his place of residence.

(2) Where the order is made by the Secretary of State, then—

- (a) if the order is in respect of a person in a prison, inebriate reformatory, criminal lunatic asylum, or place of detention, that person shall, for the purposes of the

provisions of the last foregoing section, be presumed to have resided in the place where the offence was or was alleged to have been committed, unless it is proved that he resided in some other place;

- (b) if the order is in respect of a person in a reformatory or industrial school, that person shall, for the purposes of the provisions of the last foregoing section, be deemed to have resided in the place (if any) determined to have been his place of residence for the purposes of his committal to the reformatory or industrial school.

(3) Where a council are aggrieved by a decision as to the place of residence of any person, they may, within three months after the making of the order, apply to a petty sessional court acting in and for such place as may be prescribed, and that court, on proof to its satisfaction that the person in respect of whom the order was made was resident in the area of some other council, and after giving such other council an opportunity of being heard, may transfer the liability to that other council, and may order that other council to repay the first-mentioned council any expenses incurred by them in respect of the person in question, and an appeal shall lie from the decision of the court to a court of quarter sessions; but nothing in this provision shall affect the liability of the first-mentioned council under the original order until an order made transferring the liability to another council comes into force.

(4) In the case of doubt as to where a person resides the expression "place of residence" in this section shall be construed as the county or county borough (as the case may be) in which the person would, if he were a pauper, be deemed to have acquired a settlement within the meaning of the law relating to the relief of the poor.

(5) The power of the Lord Chancellor to make rules under section twenty-nine of the Summary Jurisdiction Act, 1879, shall extend to making rules for prescribing anything which under this section is to be prescribed, and generally to the procedure of courts of summary jurisdiction under this section.

45. Superannuation of officers.—(1) The Asylums Officers' Superannuation Act, 1909, shall apply to the officers of certified institutions provided by local authorities, with the substitution of references to the managers of such institutions for references to visiting committees of asylums, and with such other adaptations and modifications as the Secretary of State may by order prescribe, and in particular such modifications may include the alteration of—

- (a) the periods of service entitling to superannuation allowances;
- (b) the scale of superannuation allowances and gratuities;
- (c) the scale of contributions:

Provided that nothing in this section shall authorize the Secretary of State to prescribe by order any modifications of the Asylums Officers' Superannuation Act, 1909, which would have the effect of increasing the amount of any superannuation allowance which could be granted to, or of reducing the amount of any contribution made by, any officer or servant under that Act.

(2) Before an order is made by the Secretary of State under this section, the draft thereof shall be laid before each House of Parliament for a period of not less than thirty days during the session of Parliament, and, if either of those Houses, before the expiration of those thirty days, presents an address to His Majesty against the draft or any part thereof, no further proceedings shall be taken thereunder, without prejudice to the making of any new draft order.

46. Scheme for the payment of superannuation allowances or gratuities to officers.—(1) The managers or owner of any certified institution not provided by a local authority, or of a certified house or an approved home, may establish, or join with the managers or owners of one or more such institutions, houses, or homes in establishing, a scheme for the payment of superannuation allowances and gratuities to officers thereof who become incapable of discharging the duties of their office by reason of permanent

infirmity of mind or body, or old age, upon their resigning or otherwise ceasing to hold their offices.

(2) The expenses incurred under any such scheme shall be treated as part of the expenses of management.

47. Contributions by the Treasury.—There shall be paid out of money provided by Parliament such sums on such conditions as the Secretary of State may, with the approval of the Treasury, recommend towards the expenses of any persons detained in certified institutions or placed under guardianship, including the expenses of removal in the case of any such person ordered to be transferred from one such institution to another and towards other expenses incurred by local authorities under this Act:

Provided that, unless Parliament otherwise determines, the aggregate amount so paid in any financial year shall not exceed one hundred and fifty thousand pounds, but for the purpose of this limitation there shall be excluded all sums paid towards the expenses of persons sent to such institutions or placed under guardianship—

- (a) by order of the Secretary of State;
- (b) by order of a court or judicial authority after having been found guilty of an offence, or having been ordered or found liable to be ordered to be sent to an industrial school.

48. Treasury contributions towards expenses of societies assisting defectives.—Where a society has undertaken the duty of assisting or supervising defectives whilst not in institutions under this Act, there may be paid to the society out of money provided by Parliament towards the expenses of the society in connection with such persons such sums and on such conditions as the Secretary of State, with the approval of the Treasury, may recommend.

49. Provisions as to certified houses.—(1) A person desirous of receiving defectives at his house for private profit may apply to the Board for a certificate, and the Board, if satisfied of the fitness of the premises and of the applicant, may, if they think fit, on payment by the applicant of the prescribed fee, grant a certificate to the applicant subject to such conditions as they may impose, and a certificate so granted shall continue in force for the period for which it is granted or until revoked or resigned under this Act, and a house in respect of which such a certificate is in force is in this Act referred to as a certified house, and the person to whom such a certificate is granted is referred to as the owner of such house.

(2) Any defective who may be ordered to be sent to, or may be placed in, an institution under this Act may be ordered to be sent to, or may be placed in, a certified house, and all the provisions of this Act relating to institutions and the patients therein shall apply to certified houses and the patients therein:—

Provided that—

- (a) no part of the money provided by Parliament under this Act shall be applied towards the expenses of defectives in certified houses; and

- (b) a local authority shall have no power or duty to contribute towards the expenses of defectives ordered to be sent to, or placed in, a certified house or to provide for their conveyance to, and reception and maintenance in, a certified house; and

- (c) the provisions of this Act with respect to the recovery from defectives or the persons liable to maintain them of contributions towards the expenses of their maintenance shall not apply in the case of defectives in, or ordered to be sent to, certified houses; and

- (d) a special report under section eleven of this Act as to the mental and bodily condition of a defective detained in a certified house shall not be made by the medical officer of the house or by any medical practitioner directly or indirectly interested in the house.

50. Provisions as to approved homes.—(1)

The managers of any premises wherein defectives are received and supported wholly or partly by voluntary contributions or by applying the excess of payments of some patients for or towards the support of other patients, and any person desirous of receiving defectives in his house for private profit, may apply to the Board to approve the premises or house, and the Board, if satisfied of the fitness of the same and of the applicant, may, if they think fit, on payment by the applicant of such fee (if any) as may be prescribed, grant their approval subject to such conditions as to inspection, the making of reports, and otherwise as they may think fit, and any such approval shall continue valid for the period for which it is granted or until withdrawn under this Act, and any premises or house so approved are in this Act referred to as an approved home.

(2) It shall not be lawful to receive or detain in an approved home any person ordered to be sent to an institution for defectives under an order or the judicial authority, or a court, or a Secretary of State under this Act.

PART IV. GENERAL.

Offences, Legal Proceedings, &c.

51. Offences with respect to the reception and detention of defectives.—(1) It shall not be lawful for a person without the consent of the Board to undertake the care and control of more than one person who is a defective, or who is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, and, if any person contravenes this provision, he shall be guilty of a misdemeanour.

(2) Where a person undertakes the care and control of any person who is a defective or is placed under his care as being a defective elsewhere than in an institution, a certified house, or an approved home, he shall, within forty-eight hours after the reception of such person, give notice thereof in the prescribed form to the local authority and to the Board, and, if he fails to do so, he shall be guilty of an offence under this Act.

(3) If any manager of any institution for defectives, or the owner of a certified house, or the guardian of a defective, detains a patient or exercises any of the powers conferred upon him by this Act after he has knowledge that those powers have expired, he shall be guilty of a misdemeanour.

(4) Nothing in this section shall apply to or affect any person who under the Lunacy Acts, 1890 to 1911, or the Elementary Education (Defective and Epileptic Children) Act, 1899, as amended by any subsequent enactment, receives or detains any person in accordance with those Acts, notwithstanding that the person so received and detained is a defective within the meaning of this Act.

52. Offence of supplying intoxicants contrary to warning.—If any person, having been warned by a person appointed to be guardian of a defective under this Act, or by a person under whose charge a patient absent from an institution or from a certified house has been placed, not to supply intoxicants to or for the use of the person under his guardianship or charge, knowingly supplies any intoxicants to or for the use of that person, he shall be guilty of an offence under this Act:

Provided that a person shall not be guilty of the offence of supplying intoxicants in contravention of the warning if the person giving the warning refuses, when required so to do, to produce the authority under which he acts.

53. Offences in relation to institutions, &c.—If any person secretes a patient in any institution or certified house or approved home or induces or knowingly assists a patient in an institution or a certified house, or a person allowed out from such an institution or house either on licence or without a licence, or a person in a place of safety or under guardianship under this Act, to escape or to break any conditions of his guardianship or licence, he shall be guilty of an offence under this Act.

54. Obstruction.—(1) Any person who obstructs any Commissioner or inspector or visitor

or any officer or other person appointed or employed by a local authority in the exercise of the powers conferred by or under this Act, shall be guilty of a misdemeanour.

(2) Any person who wilfully obstructs any other person authorised under this Act by an order in writing under the hand of the Secretary of State to visit and examine any person alleged to be a defective, or to inspect or inquire into the state of any institution, certified house, approved home, prison, or place wherein any person represented to be a defective is confined or alleged to be confined, in the execution of such order, and any person who wilfully obstructs any person authorised under this Act by any order of the Board to make any visit and examination or inquiry in the execution of such order, shall be guilty of an offence under this Act.

55. Ill-treatment.] If any manager, officer, nurse, attendant, servant, or other person employed in an institution or certified house, or approved home, or any person having charge of a defective, whether by reason of any contract, or of any tie of relationship, or marriage, or otherwise, ill-treats or wilfully neglects the defective, he shall be guilty of a misdemeanour.

56. Protection of defectives from acts of sexual immorality, procuration, &c.]—(1) Any person—

(a) who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of, any woman or girl under care or treatment in an institution or certified house or approved home, or whilst placed out on licence therefrom or under guardianship under this Act; or

(b) who procures, or attempts to procure, any woman or girl who is a defective to have unlawful carnal connection, whether within or without the King's dominions, with any person or persons; or

(c) who causes or encourages the prostitution, whether within or without the King's dominions, of any woman or girl who is a defective; or

(d) who, being the owner or occupier of any premises, or having or acting or assisting in the management or control thereof, induces or knowingly suffers any woman or girl who is a defective to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally; or

(e) who, with intent that any woman or girl who is a defective should be unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, takes or causes to be taken such woman or girl out of the possession and against the will of her parent or any other person having the lawful care or charge of her;

shall be guilty of a misdemeanour and shall be liable upon conviction on indictment to be imprisoned, with or without hard labour, for any term not exceeding two years unless he proves that he did not know, and had no reason to suspect, that the woman or girl was a defective.

(2) Section ten of the Criminal Law Amendment Act, 1885, shall apply in the case of a woman or girl who is a defective in the same manner as it applies in the case of a girl who is under the age of sixteen years.

(3) Without prejudice and in addition to the provisions of the Criminal Law Amendment Act, 1880, no consent shall be any defence in any proceedings for an indecent assault upon any defective, if the accused knew or had reason to suspect that the person in respect of whom the offence was committed was a defective.

(4) No indictment under this section shall be tried at quarter sessions.

(5) If on the trial of an indictment for rape the jury are satisfied that the accused is guilty of an offence under paragraph (a) of subsection (1) of this section, but are not satisfied that he is guilty of rape, the jury may acquit him of rape and find him guilty of such offence as aforesaid, and in that event he shall be liable to be punished

as if he had been convicted on an indictment for such offence as aforesaid.

(6) Section four of the Criminal Evidence Act, 1898, shall have effect as if this section of this Act were included in the Schedule to that Act.

57. False entries.] Any person who in any book, statement, or return knowingly makes any false entry as to any matter as to which he is by this Act or any rules made under this Act required to make an entry shall be guilty of a misdemeanour.

58. Punishment of person making untrue statement for purpose of obtaining certificate or approval.] If any person, for the purpose of obtaining any certificate or approval under this Act or the renewal of any such certificate or approval, wilfully supplies to the Board any untrue or incorrect information, plan, description, or notice, he shall be guilty of a misdemeanour.

59. Penalty for breach of regulations.] If any person is guilty of a breach of any regulation made under this Act, he shall be liable on summary conviction to a penalty not exceeding such as may be prescribed as respects such a breach by the regulations, but the maximum penalty imposed by the regulations in respect of any breach shall not exceed imprisonment, with or without hard labour, for a term of three months or a fine of fifty pounds, or both.

60. Punishment for offences.]—(1) An offence under this Act declared to be a misdemeanour shall be punishable by fine or by imprisonment for a term not exceeding two years, with or without hard labour, but may, except where otherwise expressly provided, instead of being prosecuted on indictment, be prosecuted summarily, and, if so prosecuted, shall be punishable only with imprisonment for a term not exceeding three months, with or without hard labour, or with a fine not exceeding fifty pounds, or both.

(2) Any other offence under this Act shall be punishable summarily with imprisonment for a term not exceeding three months with or without hard labour, or with a fine not exceeding fifty pounds, or both.

61. Appeals.] Any person aggrieved by the conviction or sentence of a court of summary jurisdiction under this Act may appeal to quarter sessions.

62. Protection of officers for the purposes of arrest.] The managers of an institution and the owner of a certified house and every officer of such institution or house authorised in writing by the managers or owner, for the purpose of conveying a person to or from the institution, or house, or of apprehending and bringing him back to the institution or house in case of his escape or refusal to return, shall, for that purpose and while engaged in that duty, have all the powers, protections, and privileges of a constable.

63. Application of Sections 330 and 332 of Lunacy Act, 1890.] Section three hundred and thirty of the Lunacy Act, 1890, which relates to the protection of persons putting that Act into force, and section three hundred and thirty-two of the same Act, which relates to the powers of Commissioners and visitors to summons witnesses, shall have effect as if they were herein enacted and in terms made applicable to this Act.

SUPPLEMENT.

64. Administration of property.] The provisions of section fifty and Part IV. of the Lunacy Act, 1890 (53 and 54 Vict., c. 5), as amended by any subsequent enactment, shall apply with respect to the management and administration of the estate of a person sent to or placed in an institution or to or in a certified house or placed under guardianship in accordance with the provisions of this Act, in like manner as they apply to the management and administration of the estate of a person lawfully detained as a lunatic but not so found by inquisition, and shall apply to the management and administration of the estate of a person with regard to whom it is proved to the satisfaction of the judge in lunacy that he is a defective within the meaning of this Act in like manner as they apply to the management and administra-

tion of the estate of a person who is through mental infirmity arising from disease or age incapable of managing his affairs.

65. Transfer to Board of powers and duties of Lunacy Commissioners.]—(1) All the powers and duties of the Commissioners in Lunacy under the Lunacy Acts, 1890 to 1911, shall, from the commencement of this Act, be transferred to the Board, and His Majesty may, by Order in Council, direct that anything which under those Acts is required or authorized to be done by, to, or in respect of, any one or more Commissioners in Lunacy or any officer of those Commissioners shall be done by, to, or in respect of, one or more Commissioners under this Act, or the corresponding officer of the Board:

Provided that nothing in such Order in Council shall authorize anything by those Acts required to be done by two Commissioners, one a medical practitioner and the other a barrister, to be done otherwise than by two commissioners, one a medical and the other a legal commissioner, but the order may provide that, in the case of the temporary illness or disability of a legal or medical commissioner, the Lord Chancellor or the Secretary of State (as the case may be) may appoint a person qualified to be a legal or medical commissioner to act as substitute so long as the illness or disability continues.

(2) As from the commencement of this Act, the existing staff of the Commissioners in Lunacy shall be transferred to and become members of the staff of the Board, but without prejudice to the rights of any existing members of such staff.

(3) As from the commencement of this Act, sections one hundred and fifty to one hundred and sixty-one of the Lunacy Act, 1890, shall be repealed.

66. Power to authorize committee for care of mentally defective to act as asylums committee.] The Secretary of State may by order authorize the council of a county or county borough acting as a local authority under the Lunacy Acts, 1890 to 1911, to appoint the committee for the care of the mentally defective constituted under this Act to be the visiting committee or asylums committee for the purposes of those Acts, anything in those Acts to the contrary notwithstanding.

67. Repeal of Idiots Act, 1886.]—(1) The Idiots Act, 1886, is hereby repealed.

(2) Any hospital, institution, or licensed house which at the commencement of this Act is registered under the Idiots Act, 1886, shall, without further certification, become a certified institution under this Act:

Provided that—

(a) if any such hospital, institution, or licensed house is carried on for private profit, the hospital, institution, or house shall become a certified house instead of a certified institution; and

(b) while the committee of management of any such hospital, institution, or licensed house make an application to the Board for the purpose, and the Board makes an order, the whole or any part of the hospital, institution, or house to which the order relates shall become and be treated as an approved home.

(3) Any person who before the commencement of this Act has been placed in a hospital, institution, or licensed house registered under the Idiots Act, 1886, may, after the commencement of this Act, continue to be detained therein in like manner in all respects as if he had been placed therein in pursuance of the provisions of this Act and immediately after the commencement thereof.

(4) Nothing in this Act shall affect the right of any person who is or has been an officer or servant of a hospital, institution, or licensed house registered under the Idiots Act, 1886, to receive or to continue to receive any superannuation allowance to which he would have been entitled had this Act not been passed.

68. Provisions as to regulations.] Regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and, if within thirty sitting days after they have been so laid either House of Parliament presents an address to His Majesty praying that any such regulations may be annulled, His Majesty may;

by Order in Council, annul the regulations, without prejudice, however, to anything done thereunder, and the regulations made under this Act shall have effect as if enacted in this Act.

69. Liability to removal.—The time during which a defective is detained in an institution or resides in an approved home under this Act shall for all purposes be excluded in the computation of time mentioned in section one of the Poor Removal Act, 1846, as amended by any subsequent enactment.

70. Provisions against disfranchisement.—The maintenance in an institution or under guardianship under this Act of any person for whose maintenance any other person is responsible shall not deprive that other person of any franchise, right, or privilege, or subject him to any disability.

71. Interpretation.—(1) In this Act, unless the context otherwise requires.—

The expression "prescribed" means prescribed by regulations made under this

Act:

The expression "parent or guardian" in relation to a defective shall include any person who undertakes or performs towards the defective the duty of a parent or guardian:

The expression "relative" means the husband or wife of a lineal ancestor or lineal descendant, or lineal descendant of an ancestor not more remote than great-grandfather or great-grandmother:

The expression "intoxicants" includes any intoxicating liquor, and any sedative, narcotic, or stimulant drug or preparation:

The expression "place of safety" means any workhouse or police station, any institution, any place of detention, and any hospital, surgery, or other suitable place, the occupier of which is willing to receive temporarily persons who may be taken to places of safety under this Act:

The expression "special school or class" means a special school or class within the meaning of the Elementary Education (Defective and Epileptic Children) Act, 1899:

The expressions "institution" and "institution for defectives" mean a State institution or certified institution:

The expression "State institution" means an institution for defectives of dangerous or violent propensities established by the Board under this Act:

The expression "certified institution" means an institution in respect of which a certificate has been granted under this Act to the managers to receive defectives therein, and includes, subject to the provisions of this Act, any premises provided by a board of guardians and approved under this Act:

The expression "certified house" means a house in which defectives are received by the owner thereof for his private profit, and in respect of which a certificate has been granted under this Act:

The expression "approved home" means any premises in which defectives are received and supported wholly or partly by voluntary contributions, or by applying the excess of payment of some patients for or towards the support of other patients, or a house in which defectives are received by the owner thereof for his private profit, and which has been approved by the Board under this Act:

The expression "institution for lunatics" has the same meaning as in the Lunacy Acts, 1890 to 1911:

The expression "board of guardians of a poor law union" shall include the Metropolitan Asylums Board and any joint committee of a combination of unions constituted by order of the Local Government Board.

(2) Cost on income account shall, as respects an institution provided by a local authority, include expenditure out of income by the authority by way of interest on or repayment of capital raised, or by way of rent or other similar payment, for the purposes of the provision of the institution.

(3) For the purposes of this Act, the Scilly Islands shall be deemed to be a county, and the council of those islands the council of a county, and any expenses incurred by that council under the provisions of this Act shall be treated as general expenses of the council.

72. Short title, extent, and commencement.—

(1) This Act may be cited as the Mental Deficiency Act, 1913.

(2) This Act shall not extend to Scotland or Ireland.

(3) This Act shall come into operation on the first day of April, nineteen hundred and fourteen, except that as respects the constitution of the Board of Control, and the appointment of the secretary, officers, and servants of the Board, it shall come into operation on the first day of November, nineteen hundred and thirteen.

SCHEDULE.

[Section 22.]

POWERS AND DUTIES OF THE ADMINISTRATIVE COMMITTEE.

1. The supervision of the administration by local authorities of their power and duties under this Act.

2. The certification and approval of premises.

3. The provision and maintenance of State institutions.

4. The administration of grants made out of moneys provided by Parliament under this Act.

5. Such other powers and duties of the Board under this Act of an administrative nature as the Secretary of State or the Board may assign to the administrative committee.

CHAPTER 29.

[INTERMEDIATE EDUCATION (IRELAND) ACT, 1913.]

An Act to amend the Law relating to Intermediate Education in Ireland.

[15th August 1913.]

CHAPTER 30.

[FINANCE ACT, 1913.]

An Act to continue the Duty of Customs on Tea, and to re-impose Income Tax (including super-tax), and to apply with respect to Income Tax (including super-tax) and the annual value of property the like provisions as were applied in the last preceding year.

[15th August 1913.]

Be it enacted, &c. :

1. Duty on tea.—The duty of Customs payable on tea until the first day of July nineteen hundred and thirteen, under the Finance Act, 1912 [2 & 3 Geo. 5, c. 8] shall continue to be charged, levied, and paid until the first day of July nineteen hundred and fourteen, on the importation thereof into Great Britain or Ireland (that is to say):—Tea, the pound, fivepence.

2. Income tax for 1913-14.—(1) Income tax for the year beginning on the sixth day of April nineteen hundred and thirteen shall be charged at the rate of one shilling and twopence, and the same super-tax shall be charged, levied, and paid for that year as was charged for the year beginning on the sixth day of April nineteen hundred and twelve.

(2) All such enactments relating to income tax (including super-tax) as were in force with respect to duties of income tax granted for the year beginning on the sixth day of April nineteen hundred and twelve shall have full force and effect with respect to any duties of income tax hereby granted.

(3) The annual value of any property which has been adopted for the purpose either of income tax under Schedules A. and B. in the Income Tax Act, 1853 [16 & 17 Vict. c. 34], or of inhabited house duty, during the year ending on the fifth day of April nineteen hundred and thirteen, shall be taken as the annual value of such property for the same purpose during the next subsequent year; provided that this subsection—

(a) so far as respects the duty on inhabited houses in Scotland, shall be construed with the substitution of the twenty-

fourth day of May for the fifth day of April; and

(b) shall not apply to the metropolis as defined by the Valuation (Metropolis) Act, 1869 [32 & 33 Vict. c. 67].

3. Deductions in respect of expenses involved in earning salary, &c.—Where the Treasury are satisfied with respect to any class of persons in receipt of any salary, fees, or emoluments payable out of the public revenue that such persons are obliged to lay out and expend money wholly, exclusively, and necessarily in the performance of the duties in respect of which such salary, fees, or emoluments are payable, the Treasury may fix such sum as in their opinion represents a fair equivalent of the average annual amount laid out and expended as aforesaid by persons of that class, and in assessing the income tax on the salary, fees, or emoluments of persons of that class, there shall be deducted from the amount thereof the sums so fixed by the Treasury. Provided that if any person would, but for the provisions of this section, be entitled to deduct a larger amount than the sum so fixed, that sum may be deducted instead of the sum so fixed.

4. Short title.—This Act may be cited as the Finance Act, 1913.

CHAPTER 31.

[INDUSTRIAL AND PROVIDENT SOCIETIES (AMENDMENT) ACT, 1913.]

An Act to amend the Industrial and Provident Societies Act, 1893.

[15th August 1913.]

Be it enacted, &c. :

1. Registration of society consisting of two or more other societies.—A society consisting solely of two or more registered societies may, notwithstanding anything contained in section five of the Industrial and Provident Societies Act, 1893 (in this Act referred to as the principal Act), be registered if the application to register the society is signed by two members of the committee and the secretary of each of the constituent societies, and is accompanied by two printed copies of the rules of each such society.

2. Audit of accounts.—(1) Every registered society shall once in every year submit its accounts for audit to one or more of the public auditors appointed under the provisions of the principal Act.

(2) An auditor shall not hold any other office in connection with the society.

3. Annual return.—(1) For paragraph (c) of subsection (2) of section fourteen of the principal Act (which relates to the date to which annual returns are to be made up) the following paragraph shall be substituted:—

"(c) shall be made up from the date of its registration or last annual return to that of its last published balance-sheet, unless the last-mentioned date is more than four months before or more than one month after the thirty-first day of December, in which case it shall be made up to the said thirty-first day of December inclusive; and"

(2) A registered society shall, together with the annual return, send to the Registrar a copy of the report of the auditors and a copy of each balance-sheet made during the period included in the return.

4. Triennial returns of shareholders.—A registered society shall, once at least in every three years, make out and send to the registrar, together with the annual return for the year, a special return signed by the auditor or auditors showing the holding of each person in the society (whether in shares or loans) at the date to which the said annual return is made out: Provided that, where such persons are in the list of members kept by the society distinguished by numbers, it shall be sufficient if they are distinguished in the special return by such numbers, and in that case it shall not be necessary to specify their names.

5. Amendment of principal Act as to nominations.—(1) The principal Act shall as respects

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nominations made after the commencement of this Act have effect as if the following provisions were substituted for section twenty-five of the principal Act:—

"(1) A member of a registered society not being under the age of sixteen years may, by writing under his hand delivered at or sent to the registered office of the society during the lifetime of such member or made in any book kept thereat, nominate any person or persons to or among whom there shall be transferred at his decease such property in the society as may be his at the time of his decease (whether in shares, loans, or deposits, or otherwise), or so much thereof as is specified in such nomination, if the nomination does not comprise the whole. If on the death of the nominator the amount of his property in the society comprised in the nomination exceeds one hundred pounds the nomination shall be valid to the extent of the sum of one hundred pounds, but not further or otherwise:

Provided that a person so nominated shall not be an officer or servant of the society unless such officer or servant is the husband, wife, father, mother, child, brother, sister, nephew, or niece of the nominator.

"(2) A nomination so made may be revoked or varied by a subsequent nomination signed and delivered or sent or made as aforesaid or by any similar document in the nature of a revocation or variation under the hand of the nominator so delivered sent or made as aforesaid, but shall not be revocable or variable by the will of the nominator or by any codicil thereto.

"(3) The society shall keep a book wherein the names of all persons so nominated and all revocations or variations (if any) of such nominations shall be recorded, and the property comprised in any such nomination to an amount not exceeding one hundred pounds shall be payable or transferable to the nominee although the rules of the society declare the shares not to be transferable.

"(4) The marriage of a member of a society shall operate as a revocation of any nomination made by him before such marriage, provided that, in the event of an officer of a society having transferred any property of a member to a nominee, in ignorance of a marriage contracted subsequent to the date of the nomination, the receipt of the nominee shall be a valid discharge to the society, and the society shall be under no liability to any other person claiming such property."

(2) The principal Act shall, as respects nominators dying after the commencement of this Act, have effect as if the following provisions were substituted for subsection (1) of section twenty-six of the principal Act:—

"(1) On receiving satisfactory proof of the death of a nominator, the committee of the society shall, subject to the limitation on amount herein-before provided, either transfer the property comprised in the nomination in manner directed by the nomination, or pay to every person entitled thereunder the full value of the property given to him, unless the shares comprised in the nomination, if transferred as directed by the nominator, would raise the share capital of any nominee to a sum exceeding two hundred pounds, in which case they shall pay him the value of such excess.

"(2) Where a nominee who is nominated under the provisions of this Act is under sixteen years of age, the society may pay the sum nominated to either parent, or to a guardian of the nominee, or to any other person of full age who will undertake to hold the same on trust for the nominee or to apply the same for his benefit and whom the society may think a fit and proper person for the purpose,

and the receipt of such parent, guardian, or other person shall be a sufficient discharge to the society for all moneys so paid."

6. Provisions as to death duties.] The principal Act shall have effect with respect to the payment of duty on the death of members dying after the commencement of this Act as if the following provisions were substituted for section twenty-eight of the principal Act:—

"(1) If the principal value of the estate, in respect of which estate duty is payable, of any deceased member of a registered society exceeds one hundred pounds, any property or money to be transferred or paid under section twenty-five, twenty-six, or twenty-seven of this Act without probate or administration shall be liable to estate duty as part of the amount on which that duty is charged; and the committee of the society, before making any such transfer or payment, may require a statutory declaration by the claimant or one of the claimants that such principal value, including the property or money in question, does not, after deduction of debts and funeral expenses, exceed one hundred pounds.

"(2) If the principal value of the property or money to be so transferred or paid exceeds eighty pounds the committee of the society shall, before making any transfer or payment to any person other than the legal personal representative of the deceased member, require production of a certificate from the Commissioners of Inland Revenue of the payment of the estate duty, and a duly stamped receipt for the succession or legacy duty payable in respect of the property or money so transferred or paid, or a certificate that no estate, succession or legacy duty is payable thereon."

7. Amendment of section 29 of the principal Act.] In section twenty-nine of the principal Act (which relates to the property of insane members) the words "not exceeding one hundred pounds" shall be repealed.

8. Dissolution and transfer of engagements.] On dissolution or transfer of engagements, as provided for in sections fifty-eight and fifty-three of the principal Act, the society shall not be dissolved and registration of the society shall not be cancelled until a certificate signed by the liquidator or by the secretary or some other officer of the society approved by the Registrar has been lodged with the Registrar that all property vested in the society has been duly conveyed or transferred by the society to the persons entitled.

9. Inspections and special meetings.] In subsection (4) of section fifty of the principal Act (which relates to the expenses of inspections and special meetings) after the word "incidental" there shall be inserted the words "or preliminary."

10. Offences by societies, &c.] The following provisions shall be substituted for section sixty-two of the principal Act:—

"It shall be an offence under this Act if—

"(a) a registered society, or an officer or member thereof, or any other person, fails to give any notice, send any return or document, do or allow to be done anything which the society, officer, or member, or person is by this Act required to give, send, do, or allow to be done; or

"(b) a registered society, or an officer or member thereof, or any other person, wilfully neglects or refuses to do any act, or to furnish any information required for the purposes of this Act by the chief or other registrar, or by any other person authorised under this Act, or does anything forbidden by this Act; or

"(c) a registered society, or an officer or member thereof, or any other person, makes a return, or wilfully furnishes information in any respect false or insufficient; or

"(d) a registered society carries on the business of banking when it has any withdrawable share capital, or in carrying on such business does not make out and keep conspicuously hung up such statement as is herein-before required, or makes any payment of withdrawals capital contrary to the provisions of this Act."

11. Recovery of penalties.] The following subsections shall be added to the provisions contained in section sixty-nine of the principal Act:—

"(3) Any costs or expenses ordered or directed by the chief or other registrar to be paid by any person under this Act shall be recoverable summarily before a court of summary jurisdiction as a civil debt.

"(4) Where proceedings are taken against a society for the recovery of any fine under this Act, the summons or other process shall be sufficiently served by leaving a true copy thereof at the registered office of the society, or, if that office is closed, by posting the copy on the outer door of that office."

12. Short title, construction, commencement, and repeal.]—(1) This Act may be cited as the Industrial and Provident Societies (Amendment) Act, 1913, and the Industrial and Provident Societies Acts, 1893 to 1895, and this Act may be cited together as the Industrial and Provident Societies Acts, 1893 to 1913.

(2) This Act shall be construed as one with the Industrial and Provident Societies Act, 1893, and shall come into operation on the first day of January nineteen hundred and fourteen.

(3) The principal Act is hereby repealed to the extent specified in the third column of the Schedule to this Act.

SCHEDULE. ENACTMENTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
56 & 57 Vict. c. 39.	The Industrial and Provident Societies Act, 1893.	<p>Subsection (1) of section thirteen. In section fourteen, paragraph (c) of subsection (2), and all the words from "and if by any persons" to the end of the section.</p> <p>Section twenty-five, except as respects nominations made before the commencement of this Act.</p> <p>Section twenty-six.</p> <p>Subsection (1) of section twenty-seven, from "subject" to the end of the subsection.</p> <p>Section twenty-eight.</p> <p>In section twenty-nine, the words "not exceeding one hundred pounds."</p>

Session and Chapter.	Short Title.	Extent of Repeal.
16 & 57 Vict. c. 39.	The Industrial and Provident Societies Act, 1893.	Section sixty-two. In section seventy-two the words "but the employment of such auditors shall not be compulsory."

CHAPTER 32.

[ANCIENT MONUMENTS CONSOLIDATION AND AMENDMENT ACT, 1913.]

An Act to consolidate and amend the Law relating to Ancient Monuments and for other purposes in connection therewith.

[15th August 1913.]

CHAPTER 33.

[TEMPERANCE (SCOTLAND) ACT, 1913.]

An Act to promote Temperance in Scotland by conferring on the electors in prescribed areas control over the grant and renewal of certificates; by securing a later hour of opening for licensed premises; by amending the law relating to clubs; and by other provisions incidental thereto.

[15th August 1913.]

CHAPTER 34.

[BANKRUPTCY AND DEEDS OF ARRANGEMENT ACT, 1913.]

An Act to amend the Law with respect to Bankruptcy and Deeds of Arrangement.

[15th August 1913.]

Be it enacted, &c.

PART I.

BANKRUPTCY.

1. *Power to prosecute offences summarily.*—(1) Any offence under, or which may be dealt with as if it were an offence under, the Debtors Act, 1869, alleged to have been committed by a person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, may be prosecuted summarily, and, if so prosecuted, references in the enactments creating those offences to the jury shall be construed as references to a court of summary jurisdiction:

Provided that—

(a) the maximum term of imprisonment, with or without hard labour, which may be awarded by a court of summary jurisdiction for any such offence shall be six months; and

(b) summary proceedings in respect of any such offence shall not be instituted after one year from the first discovery thereof either by the Official Receiver or by the trustee in the bankruptcy, or, in the case of proceedings instituted by a creditor, by the creditor, nor in any case shall they be instituted after three years from the commission of the offence.

(2) Where the prosecution of a person for any such offence is ordered by the court, and the order of the court is made on the application of the Official Receiver and based on his report, the Board of Trade may, notwithstanding anything in section one hundred and sixty-six of the Bankruptcy Act, 1883 (hereinafter referred to as "the principal Act"), themselves or through the Official Receiver institute the prosecution and carry on the proceedings, if so long as those proceedings are conducted before a court of summary jurisdiction, unless in the course thereof circumstances arise which, in the opinion of such court or of the Board, render it desirable that the remainder of the proceedings

should be carried on by the Director of Public Prosecutions.

2. *Provisions with respect to offences under the Debtors Act, 1869.*—(1) Where under the Debtors Act, 1869, an act or default committed by a person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, is an offence unless the jury are satisfied that he had no intent to defraud, or (as the case may be) to conceal the state of his affairs or to defeat the law, it is hereby declared that the onus of proving the absence of such intent lies upon the person accused, and that it is not necessary to allege in the indictment or information charging the offence, or to prove, any such intent.

(2) Any acts or defaults committed after the commencement of this Act by any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, which under any of the provisions of the Debtors Act, 1869, are made offences if committed within four months next before the presentation of a bankruptcy petition by or against such person, shall be offences if committed within six months next before the presentation of such a petition.

(3) Any act or default which under paragraphs thirteen, fourteen, or fifteen of section eleven of the Debtors Act, 1869, as amended by this section, is an offence if committed within six months next before the presentation of a bankruptcy petition, shall be an offence if committed after the presentation of a bankruptcy petition and before the making of a receiving order.

(4) Paragraphs fourteen and fifteen of section eleven of the Debtors Act, 1869 (which make certain acts offences if committed by traders), shall extend to the like acts committed after the commencement of this Act by persons who are not traders, and accordingly those paragraphs in relation to persons who are not traders shall have effect as if the words "being a trader," wherever they occur in those paragraphs, and the words "otherwise than in the ordinary way of his trade," which occur in paragraph fifteen, were omitted therefrom.

(5) Section eleven of the Debtors Act, 1869, shall be construed and have effect as if references to the trustee administering an estate for the benefit of creditors included references to the Official Receiver.

(6) Section fourteen of the Debtors Act, 1869 (which relates to false claims by creditors), shall extend to persons claiming to be creditors, and accordingly in that section after the word "creditor" there shall be inserted the words "or any person claiming to be a creditor."

(7) Notwithstanding anything in section sixteen of the Debtors Act, 1869, it shall not be obligatory on any court, in the absence of any application by the Official Receiver for such an order, to make an order under that section for the prosecution of an offence, unless it appears to the court not only that there is a reasonable probability that the bankrupt will be convicted, but also that the circumstances are such as to render a prosecution desirable.

(8) The Debtors Act, 1869, shall, as regards any acts or defaults committed after the commencement of this Act, have effect as if for section eleven thereof there were substituted the provisions set forth in the First Schedule to this Act, being the said section eleven as amended by subsequent enactments, including this section.

3. *Punishment on bankrupt failing to keep proper accounts.*—(1) If any person who has on any previous occasion been adjudged bankrupt or made a composition or arrangement with his creditors is adjudged bankrupt, or if a receiving order is made in respect of his estate, he shall be guilty of an offence and may be dealt with and punished as if he had been guilty of an offence under section eleven of the Debtors Act, 1869, if, having during the whole or any part of the two years immediately preceding the date of the presentation of the bankruptcy petition been engaged in any trade or business, he has not kept proper books of account throughout those two years or such part thereof as aforesaid, and, if so engaged at the date of presentation of the petition, thereafter, whilst so engaged, up to

the date of the receiving order, or has not preserved all books of account so kept:

Provided that a person who has not kept or has not preserved such books of account shall not be convicted of an offence under this section if his unsecured liabilities at the date of the receiving order did not exceed one hundred pounds, or if he proves that in the circumstances in which he traded or carried on business the trading was honest and excusable.

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor, where the receiving order in the bankruptcy is made within two years, from the commencement of this Act.

(3) For the purposes of this section, a person shall be deemed not to have kept proper books of account if he has not kept such books or accounts as are necessary to exhibit or explain his transactions and financial position in his trade or business, including a book or books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, also accounts of all goods sold and purchased, and statements of annual stock takings.

(4) Paragraphs (9), (10) and (11) of section eleven of the Debtors Act, 1869 (which relate to the destruction, mutilation and falsification and other fraudulent dealing with books and documents), shall, in their application to such books as aforesaid, have effect as if "two years next before the presentation of the bankruptcy petition" were substituted for the time mentioned in those paragraphs as the time prior to the presentation within which the acts or omissions specified in those paragraphs constitute an offence.

4. *Punishment of bankrupt for gambling, &c.*

(1) Any person who has been adjudged bankrupt, or in respect of whose estate a receiving order has been made, shall be guilty of an offence, and may be dealt with and punished as if he had been guilty of an offence under section eleven of the Debtors Act, 1869, if, having been engaged in any trade or business, and having outstanding at the date of the receiving order any debts contracted in the course and for the purposes of such trade or business,—

(a) he has, within two years prior to the presentation of the bankruptcy petition, materially contributed to or increased the extent of his insolvency by gambling or by rash and hazardous speculations, and such gambling or speculations are unconnected with his trade or business;

(b) he has, between the date of the presentation of the petition and the date of the receiving order, lost any part of his estate by such gambling or rash and hazardous speculations as aforesaid; or

(c) on being required by the Official Receiver at any time, or, in the course of his public examination, by the court to account for the loss of any substantial part of his estate incurred within a period of a year next preceding the date of the presentation of the bankruptcy petition, or between that date and the date of the receiving order, he fails to give a satisfactory explanation of the manner in which such loss was incurred:

Provided that, in determining for the purposes of this section whether any speculations were rash and hazardous, the financial position of the accused person at the time when he entered into the speculations shall be taken into consideration.

(2) A prosecution shall not be instituted against any person under this section except by order of the court, nor, where the receiving order in the bankruptcy is made within two years, from the commencement of this Act.

5. *Obtaining credit by undischarged bankrupts.*—(1) Where an undischarged bankrupt—

(a) either alone or jointly with any other person obtains credit to the extent of ten pounds or upwards from any person without informing such person that he is an undischarged bankrupt; or

(b) engages in any trade or business under

a name other than that under which he was adjudicated bankrupt without disclosing to all persons with whom he enters into any business transaction the name under which he was adjudicated bankrupt;

he shall be guilty of an offence and may be dealt with and punished as if he had been guilty of an offence under section eleven of the Debtors Act, 1869.

(2) Section thirty-one of the principal Act is hereby repealed.

6. Amendment of provisions as to discharge. Where under section eight of the Bankruptcy Act, 1890, an application is made by a bankrupt for his discharge, the period for which the discharge may be suspended may, notwithstanding anything in subsection (2) of that section, be a period of less than two years if of the facts referred to in that subsection the only fact proved is that the bankrupt's assets are not of a value equal to ten shillings in the pound on the amount of his unsecured liabilities.

7. Security in cases of compositions and schemes of arrangement. "Five shillings in the pound" shall be substituted for "seven shillings and sixpence in the pound" in subsection (9) of section three of the Bankruptcy Act, 1890, as the sum for the payment of which reasonable security must be provided under the circumstances stated in that subsection before the court may approve a proposal by a debtor for a composition in satisfaction of his debts or for a scheme of arrangement of his affairs.

8. Meaning of "debtor" in Bankruptcy Acts. In the Bankruptcy Acts, 1883 and 1890, and in this Act, the expression "a debtor," unless the context otherwise implies, includes any person, whether a British subject or not, who at the time when any act of bankruptcy was done or suffered by him—

- (a) was personally present in England; or
- (b) ordinarily resided or had a place of residence in England; or
- (c) was carrying on business in England, personally, or by means of an agent or manager, or
- (d) was a member of a firm or partnership which carried on business in England.

9. Conditions on which creditor may petition. For paragraph (d) of subsection (1) of section six of the principal Act (which relates to the conditions on which a creditor may present a bankruptcy petition), the following paragraph shall be substituted:—

- "(d) the debtor is domiciled in England, or within a year before the date of the presentation of the petition has ordinarily resided, or had a dwelling-house or place of business, in England, or (except in the case of a person domiciled in Scotland or Ireland or a firm or partnership having its principal place of business in Scotland or Ireland) has carried on business in England, personally or by means of an agent or manager, or (except as aforesaid) is or within the said period has been a member of a firm or partnership of persons which has carried on business in England by means of a partner or partners, or an agent or manager."

10. Validity of certain payments to bankrupt and assignee. A payment of money, or delivery of property, to a person subsequently adjudged bankrupt, or to a person claiming by assignment from him shall, notwithstanding anything in the enactments relating to bankruptcy, be a good discharge to the person paying the money or delivering the property, if the payment or delivery is made before the actual date on which the receiving order is made and (except in cases where the receiving order is made under subsection (5) of section one hundred and three of the principal Act) without notice of the presentation of a bankruptcy petition, and is either pursuant to the ordinary course of business or otherwise bona fide.

11. Dealings with undischarged bankrupt.—(1) All transactions by a bankrupt with any per-

son dealing with him bona fide and for value in respect of property, whether real or personal, acquired by the bankrupt after the adjudication shall, if completed before any intervention by the trustee, be valid against the trustee, and any estate or interest in such property which by virtue of the enactments relating to bankruptcy is vested in the trustee shall determine and pass in such manner and to such extent as may be required for giving effect to any such transaction.

This subsection shall apply to transactions with respect to real property completed before the commencement of this Act in any case where there has not been any intervention by the trustee before that date.

For the purposes of this subsection, the receipt of any money, security, or negotiable instrument from, or by the order or direction of, a bankrupt by his banker, and any payment and any delivery of any security or negotiable instrument made to, or by the order or direction of, a bankrupt by his banker, shall be deemed to be a transaction by the bankrupt with such banker dealing with him for value.

(2) Where a banker has ascertained that a person having an account with him is an undischarged bankrupt, then, unless the banker is satisfied that the account is on behalf of some other person, it shall be his duty forthwith to inform the trustee in bankruptcy or the Board of Trade of the existence of the account, and thereafter he shall not make any payments out of the account except under an order of the court or in accordance with instructions from the trustee in bankruptcy, unless by the expiration of one month from the date of giving the information no instructions have been received from the trustee.

(3) In the event of a second or subsequent receiving order being made against a bankrupt, any property acquired by him since he was last adjudged bankrupt which at the date when the subsequent petition was presented had not been distributed amongst the creditors in such last preceding bankruptcy, shall (subject to any disposition thereof made by the official receiver or trustee in that bankruptcy, without knowledge of the presentation of the subsequent petition and subject to the provisions of subsection (1) of this section) vest in the trustee in the subsequent bankruptcy, but any unsatisfied balance of the debts provable under the last preceding bankruptcy may be proved in the subsequent bankruptcy by the trustee in the last preceding bankruptcy.

(4) Where the trustee in any bankruptcy receives notice of a subsequent petition in bankruptcy against the bankrupt, he shall hold any property then in his possession which has been acquired by the bankrupt since he was adjudged bankrupt until the subsequent petition has been disposed of, and, if on the subsequent petition an order of adjudication is made, he shall transfer all such property or the proceeds thereof (after deducting his costs and expenses) to the trustee in the subsequent bankruptcy.

12. Married women.—(1) Every married woman who carries on a trade or business, whether separately from her husband or not, shall be subject to the bankruptcy laws as if she were a feme sole.

(2) Where a married woman carries on a trade or business and a final judgment or order has been obtained against her, whether or not expressed to be payable out of her separate property, for any amount, that judgment or order shall be available for bankruptcy proceedings against her by a bankruptcy notice as though she were personally bound to pay the judgment debt or sum ordered to be paid.

(3) Where a married woman who has been adjudged bankrupt has separate property the income of which is subject to a restraint on anticipation, the court shall have power, on the application of the trustee, to order that during such time as the court may order the whole or some part of such income be paid to the trustee for distribution among the creditors, and in the exercise of such power the court shall have regard to the means of subsistence available for such woman and her children.

(4) Where a married woman has been adjudged

bankrupt, her husband shall not be entitled to claim any dividend as a creditor in respect of any money or other estate lent or entrusted by him to his wife for the purposes of her trade or business until all claims of the other creditors of his wife for valuable consideration in money or money's worth have been satisfied.

13. Amendment of s. 47 of principal Act as to the avoidance of settlements. The following subsections shall be substituted for subsection (2) of section forty-seven of the Bankruptcy Act, 1883, which relates to the avoidance of settlements:—

(2) Any covenant or contract made by any person (hereinafter called the settlor) in consideration of his or her marriage, either for the future payment of money for the benefit of the settlor's wife or husband, or children, or for the future settlement on or for the settlor's wife or husband or children of property, wherein the settlor had not at the date of the marriage any estate or interest, whether vested or contingent, in possession or remainder, and not being money or property in right of the settlor's wife or husband, shall, if the settlor is adjudged bankrupt and the covenant or contract has not been executed at the date of the commencement of his bankruptcy, be void against the trustee in bankruptcy, except so far as it enables the persons entitled under the covenant or contract to claim for dividend in the settlor's bankruptcy under or in respect of the covenant or contract, but any such claim to dividend shall be postponed until all claims of the other creditors for valuable consideration in money or money's worth have been satisfied.

(2a) Any payment of money (not being payment of premiums on a policy of life assurance) or any transfer of property made by the settlor in pursuance of such a covenant or contract as aforesaid shall be void against the trustee in the settlor's bankruptcy, unless the persons to whom the payment or transfer was made, prove, either—

"(a) that the payment or transfer was made more than two years before the date of the commencement of the bankruptcy; or

"(b) that at the date of the payment or transfer the settlor was able to pay all his debts without the aid of the money so paid or the property so transferred; or

"(c) that the payment or transfer was made in pursuance of a covenant or contract to pay or transfer money or property expected to come to the settlor from or on the death of a particular person named in the covenant or contract and was made within three months after the money or property came into the possession or under the control of the settlor:

but, in the event of any such payment or transfer being declared void, the persons to whom it was made shall be entitled to claim for dividend under or in respect of the covenant or contract in like manner as if it had not been executed at the commencement of the bankruptcy."

14. Avoidance of general assignments of book debts unless registered.—(1) Where a person engaged in any trade or business makes an assignment to any other person of his existing or future book debts or any class thereof, and is subsequently adjudicated bankrupt, the assignment shall be void against the trustee as regards any book debts which have not been paid at the commencement of the bankruptcy unless the assignment has been registered as if the assignment were a bill of sale given otherwise than by way of security for the payment of a sum of money, and the provisions of the Bills of Sale Act, 1878, with respect to the registration of bills of sale shall apply accordingly, subject to such necessary modifications as may be made by rules under that Act:

Provided that nothing in this section shall have effect so as to render void any assignment of book debts due at the date of the assignment from specified debtors, or of debts growing due under specified contracts, or any assignment of

book debts included in a transfer of a business made bona fide and for value, or in any assignment of assets for the benefit of creditors generally.

(2) For the purposes of this section, "assignments" include assignments by way of security and other charges on book debts.

15. Protection of sheriff, &c., selling goods under execution without notice of claim by third party.]—Where any goods in the possession of an execution debtor at the time of seizure by a sheriff, high bailiff, or other officer charged with the enforcement of a writ, warrant, or other process of execution, are sold by such sheriff, high bailiff, or other officer, without any claim having been made to the same, the purchaser of the goods so sold shall acquire a good title to the goods so sold, and no person shall be entitled to recover against the sheriff, high bailiff, or other officer, or anyone lawfully acting under the authority of either of them, except as provided by the Bankruptcy Acts, 1883 and 1890, for any sale of such goods or for paying over the proceeds thereof, prior to the receipt of a claim to the said goods unless it is proved that the person from whom recovery is sought had notice, or might by making reasonable inquiry have ascertained that the goods were not the property of the execution debtor: Provided that nothing in this section contained shall affect the right of any claimant who may prove that at the time of sale he had a title to any goods so seized and sold to any remedy to which he may be entitled against any person other than such sheriff, high bailiff, or other officer as aforesaid.

16. Amendment of s. 4 (1) (g) of principal Act as to acts of bankruptcy.]—(1) Section four of the principal Act (which relates to acts of bankruptcy) shall have effect as though in paragraph (g) of subsection (1) thereof (which makes it an act of bankruptcy to fail to pay a judgment debt after bankruptcy notice where bankruptcy notice has been served) and in section one of the Bankruptcy Act, 1890, references to final orders and to sums ordered to be paid were included in the references to final judgments and judgment debts respectively wherever the same occur, and a reference to the proceedings in which the order was obtained was included in the reference to the action in which the judgment was obtained.

(2) Notwithstanding anything in the said paragraph (g):—

- (i) a bankruptcy notice may specify an agent to act on behalf of the creditor in respect of any payment or other thing required by the notice to be made to, or done to the satisfaction of, the creditor;
- (ii) a bankruptcy notice shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such mis-statement, but, if the debtor does not give such notice, he shall be deemed to have complied with the bankruptcy notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein.

17. Amendment of s. 22 of principal Act as to committee of inspection.]—The power under section twenty-two of the principal Act to appoint at a meeting of creditors as members of a committee of inspection the holders of general proxies or general powers of attorney from the creditors shall be deemed to include the power to appoint a person subject to his subsequently becoming the holder of such a general proxy or general power of attorney: Provided that a person appointed a member of a committee of inspection under this provision shall not be qualified to act until he holds such a proxy or power of attorney.

18. Landlord's power of distress in case of bankruptcy.]—(1) Where in exercise of the power conferred by section forty-two of the principal Act the landlord or other person to whom any

rent is due from a bankrupt distrains upon the goods or effects of the bankrupt for rent due from the bankrupt, such distress for rent, if levied after the commencement of the bankruptcy, shall not be available for rent payable in respect of any period subsequent to the date when the distress was levied, and accordingly in subsection (1) of that section, after the words "order of adjudication" there shall be inserted the words "and shall not be available for rent payable in respect of any period subsequent to the date when the distress was levied."

(2) Where any goods of a debtor have been taken in execution, the limit on the amount of rent which the party at whose suit the execution is sued out is liable to pay to the landlord under section one of the Landlord and Tenant Act, 1709, or which the landlord is entitled to be paid under section one hundred and sixty of the County Courts Act, 1888, shall, unless notice of claim for rent due has been served on the sheriff or bailiff or other officer levying the execution by or on behalf of the landlord before the commencement of the debtor's bankruptcy, be six months' rent, instead of one year's rent, and the rights of the landlord under the said provisions shall not extend to any claim for rent payable in respect of any period subsequent to the date of such notice unless such notice was served as aforesaid before the commencement of the debtor's bankruptcy.

(3) Nothing in the last preceding subsection shall be construed as imposing any liability on the sheriff, bailiff, or other officer levying the execution, or on the person at whose suit the execution was sued out, to account for any sum actually paid to the landlord by him before notice was served on him that a receiving order had been made against the debtor, but the landlord shall be liable to pay to the trustee in the bankruptcy any sum he may have received from such sheriff, bailiff, officer, or person as aforesaid in excess of the amount which he was entitled to be paid, without prejudice, however, to the right of the landlord to prove for the amount of such excess.

19. Removal of trustee.]—(1) If the Board of Trade are of opinion that any trusteeship in bankruptcy is being needlessly protracted without any probable advantage to the creditors, the Board may remove the trustee from his office, but, if the creditors by ordinary resolution disapprove of his removal, he or they may appeal against it to the High Court.

(2) Where on the release, removal, resignation, or death of a trustee in bankruptcy an official receiver is acting as trustee, he may disclaim any onerous property of the bankrupt which might be disclaimed by a trustee under section fifty-five of the principal Act, notwithstanding that the time prescribed by that section for such disclaimer has expired, but such power of disclaimer shall be exercisable only within twelve months after the official receiver has become trustee in the circumstances aforesaid or has become aware of the existence of such onerous property, whichever period may last expire.

20. Power to order payment into local banks in certain cases.] In any bankruptcy composition or scheme of arrangement in which the Official Receiver is acting as trustee or in which a trustee is acting without a committee of inspection, the Board of Trade may, if for special reasons they think fit to do so, and notwithstanding anything in section seventy-four of the principal Act, upon the application of the Official Receiver or other trustee authorise the trustee to make his payments into and out of such local bank as the Board may direct.

Such account shall be opened and kept by the trustee in the name of the debtor's estate, and any interest receivable in respect of the account shall be part of the assets of the estate.

The trustee shall make his payments into and out of such local bank in the prescribed manner.

21. Provisions as to estates of persons dying insolvent.]—(1) The following provisions, namely—

Section twenty-seven of the principal Act (which relates to the discovery of a debtor's property);

Section seventy-three of the principal Act

(which relates to the costs of trustees, managers, and other persons);
Section one hundred and twenty-one of the principal Act (which relates to the summary administration of small estates); and Subsection (2) of section six of the Bankruptcy (Discharge and Closure) Act, 1887 (which relates to the duties and liabilities of an official receiver or official assignee who has been released);

shall, so far as the same are applicable, apply in the case of the administration in bankruptcy of the estate of a person dying insolvent in like manner as in the case of the administration of the estate of a person adjudged bankrupt, and section one hundred and twenty-five of the principal Act (which relates to the administration in bankruptcy of the estates of persons dying insolvent) shall have effect accordingly as though the above-mentioned provisions were included amongst the provisions of the principal Act applied in such a case by subsection (6) of that section, but subject to any modifications that may be made therein by general rules under subsection (11) of that section for adapting them to such case as aforesaid.

(2) If no committee of inspection is appointed under subsection (5) of section twenty-one of the Bankruptcy Act, 1890, in the case of a person dying insolvent, any act or thing or any direction or permission which might have been done or given by a committee of inspection may be done or given by the Board of Trade.

(3) A petition for the administration of the estate of a deceased debtor under section one hundred and twenty-five of the principal Act may be presented by the legal personal representative of the debtor; and, where a petition is so presented by such a representative, that section shall apply subject to such modifications as may be prescribed by general rules made under subsection (11) of that section.

22. Amendment of s. 23 of the Act of 1890 as to interest on debt.] In dealing with any proof of a debt to which section twenty-three of the Bankruptcy Act, 1890 (which relates to interest on debts) applies, the following rules shall be observed:—

(a) Any account settled between the debtor and the creditor within three years preceding the date of the receiving order may be examined, and, if it appears that the settlement of the account forms substantially one transaction with any debt alleged to be due out of the debtor's estate (whether in the form of renewal of a loan or capitalisation of interest or ascertainment of loans or otherwise), the account may be re-opened and the whole transaction treated as one;

(b) Any payments made by the debtor to the creditor before the receiving order, whether by way of bonus or otherwise, and any sums received by the creditor before the receiving order from the realisation of any security for the debt shall, notwithstanding any agreement to the contrary, be appropriated to principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate;

(c) Where the debt due is secured and the security is realised after the receiving order, or the value thereof is assessed in the proof, the amount realised or assessed shall be appropriated to the satisfaction of principal and interest in the proportion that the principal bears to the sum payable as interest at the agreed rate.

23. Protection of official receivers and trustees from personal liability in certain cases.] Where the Official Receiver or trustee has seized or disposed of any goods, chattels, property, or other effects in the possession of or on the premises of a debtor against whom a receiving order has been made, without notice of any claim by any person in respect of the same, and it is thereafter made to appear that the said goods, chattels, property, or other effects were not, at the date of the receiving order, the property of the debtor, the Official Receiver or trustee shall not be personally liable.

ally liable for any loss or damage arising from such seizure or disposal sustained by any person claiming such property, nor for the costs of any proceedings taken to establish a claim thereto, unless the court is of opinion that the Official Receiver or trustee has been guilty of negligence in respect of the same.

24. Application of bankruptcy law to limited partnerships.]—(1) The enactments relating to bankruptcy shall, subject to such modifications as may be made by general rules under the principal Act, apply to limited partnerships in like manner as if limited partnerships were ordinary partnerships, and, on all the general partners of a limited partnership being adjudged bankrupt, the assets of the limited partnership shall vest in the trustee.

(2) Such of the provisions of the Companies (Consolidation) Act, 1908, as relate to the winding up of limited partnerships shall be repealed as respects England.

25. Provisions as to copyright.] Where the property of a bankrupt comprises the copyright in any work or any interest in such copyright, and he is liable to pay to the author of the work royalties or a share of the profits in respect thereof, the trustee in the bankruptcy shall not be entitled to sell, or authorise the sale of, any copies of the work, or to perform or authorise the performance of the work, except on the terms of paying to the author such sums by way of royalty or share of the profits as would have been payable by the bankrupt, nor shall he, without the consent of the author or of the court, be entitled to assign the right or transfer the interest or to grant any interest in the right by licence except upon terms which will secure to the author payments by way of royalty or share of profits at a rate not less than that which the bankrupt was liable to pay.

26. Right of trustee to inspect goods pawned, &c.] Where any goods of a debtor against whom a receiving order has been made are held by any person by way of pledge, pawn, or other security, it shall be lawful for the official receiver or trustee of the debtor's estate, after giving notice in writing of his intention to do so, to inspect the goods, and, where such notice has been given, such person as aforesaid shall not be entitled to realise his security until he has given the trustee a reasonable opportunity of inspecting the goods and of exercising his right of redemption if he thinks fit to do so.

27. Minor amendments of Bankruptcy Acts.] The amendments specified in the second column of the Second Schedule to this Act (which relate to minor details) shall be made in the provisions of the Bankruptcy Acts, 1883 and 1890, specified in the first column of that Schedule.

PART II.

DEED OF ARRANGEMENT.

28. Avoidance of deeds of arrangement unless assented to by a majority of the creditors.]—(1) A deed of arrangement shall be void unless, before or within twenty-one days after the registration thereof, or within such extended time as the High Court or the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed may allow, it has received the assent of a majority in number and value of the creditors of the debtor.

(2) The list of creditors annexed to the affidavit of the debtor filed on the registration of the deed of arrangement shall be *prima facie* evidence of the names of the creditors and the amounts of their claims.

(3) The assent of a creditor for the purposes of subsection (1) of this section shall be established by his executing the deed of arrangement or sending to the trustee his assent in writing attested by a witness, but not otherwise.

(4) The trustee shall file with the Registrar of Bills of Sale at the time of the registration of a deed of arrangement, or, in the case of a deed of arrangement assented to after registration, within twenty-eight days after registration or within such extended time as the High Court or the court having jurisdiction in bankruptcy

in the district in which the debtor resided or carried on business at the date of the execution of the deed may allow, a statutory declaration by the trustee that the requisite majority of the creditors of the debtor have assented to the deed of arrangement, which declaration shall, in favour of a purchaser for value, be conclusive evidence, and in other cases be *prima facie* evidence of the fact declared.

(5) In calculating a majority of creditors for the purposes of this and the next following section, a creditor holding security upon the property of the debtor shall be reckoned as a creditor only in respect of the balance (if any) due to him after deducting the value of such security, and creditors whose debts amount to sums not exceeding ten pounds shall be reckoned in the majority in value but not in the majority in number.

29. Security by trustee of deed of arrangement.]—(1) The trustee under a deed of arrangement shall, within seven days from the date on which the statutory declaration certifying the assent of the creditors is filed, give security in the prescribed manner to the Registrar of the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, or, if he then resided or carried on business in the London bankruptcy district, to the senior bankruptcy registrar of the High Court, in a sum equal to the estimated assets available for distribution amongst the unsecured creditors as shown by the affidavit filed on registration, to administer the deed properly and account fully for the assets which come to his hands, unless a majority in number and value of the assigning debtor's creditors, either by resolution passed at a meeting convened by notice to all the creditors, or by writing addressed to the trustee, dispense with his giving such security :

Provided that, when such a dispensation has been so given, the trustee shall forthwith make and file with the Registrar of Bills of Sale a statutory declaration to that effect, which declaration shall, in favour of a purchaser for value, be conclusive evidence and in other cases be *prima facie* evidence of the facts declared.

(2) If a trustee under a deed of arrangement fails to comply with the requirements of this section, the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, or, if he then resided or carried on business in the London bankruptcy district, the High Court, on the application of any creditor and after hearing such persons as it may think fit, may declare the deed of arrangement to be void or may make an order appointing another trustee in the place of the trustee appointed by the deed of arrangement.

(3) A certificate that the security required by this section has been given by a trustee, signed by the Registrar to whom it was given, and filed with the Registrar of Bills of Sale, shall be conclusive evidence of the fact.

(4) All moneys received by a trustee under a deed of arrangement shall be banked by him to an account to be opened in the name of the debtor's estate.

30. Penalty on trustee acting when deed of arrangement void.]—If a trustee acts under a deed of arrangement—

(a) after it has to his knowledge become void by reason of non-compliance with any of the requirements of the Deeds of Arrangement Act, 1887, or this Act; or

(b) after he has failed to give security within the time and in the manner provided for by this Act;

he shall be liable on summary conviction to a fine not exceeding five pounds for every day between the date on which the deed became void or the expiration of the time within which security should have been given, as the case may be, and the last day on which he is proved to have acted as trustee, unless he satisfies the court before which he is accused that his contravention of the law was due to inadvertence, or that his action has been confined to taking such steps as were necessary for the protection of the estate.

31. Effect of notice to creditors of deed of arrangement.]—(1) If the trustee under a deed of arrangement serves in the prescribed manner on any creditor of the debtor notice in writing of the execution of the deed and of the filing of the certificate of creditors' assents, with an intimation that the creditor will not, after the expiration of one month from the service of the notice, be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed, or on any other act committed by him in the course or for the purpose of the proceedings preliminary to the execution of the deed, as an act of bankruptcy, that creditor shall not, after the expiration of that period (unless the deed becomes void), be entitled to present a bankruptcy petition against the debtor founded on the execution of the deed, or on any act so committed by him, as an act of bankruptcy.

(2) Where a deed of arrangement has become void by virtue of the Deeds of Arrangement Act, 1887, or this Act, the fact that a creditor has assented to the deed shall not disentitle him to present a bankruptcy petition founded on the execution of the deed of arrangement as an act of bankruptcy.

32. Audit and accounts.]—(1) Where in the course of the administration of the estate of a debtor who has executed a deed of arrangement, or within twelve months from the date when the final accounts of the estate were rendered, an application in writing is made to the Board of Trade by a majority in number and value of the creditors who have assented to the deed for an official audit of the trustee's accounts, the Board may cause the trustee's accounts to be audited, and in such case all the provisions of the Bankruptcy Act, 1883, relating to the institution and enforcement of an audit of the accounts of a trustee in bankruptcy (including the provisions as to fees) shall, with necessary modifications, apply to the audit of the trustee's accounts, and the Board shall have power on the audit to require production of a certificate for the taxed costs of any solicitor whose costs have been paid or charged by the trustee, and to disallow the whole or any part of any costs in respect of which no certificate is produced.

The Board of Trade may determine how and by what parties the costs, charges, and expenses of and incidental to the audit (including any prescribed fees chargeable in respect thereof) are to be borne, whether by the applicants or by the trustee or out of the estate, and may, before granting an application for an audit, require the applicants to give security for the costs of the audit.

(2) Every trustee under a deed of arrangement shall, at the expiration of six months from the date of the registration of the deed, and thereafter at the expiration of every subsequent period of six months until the estate has been finally wound up, send to each creditor who has assented to the deed a statement in the prescribed form of the trustee's accounts and of the proceedings under the deed down to the date of the statement, and shall, in his affidavit verifying his accounts transmitted to the Board of Trade, state whether or not he has duly sent such statements, and the dates on which the statements were sent; and, if a trustee fails to comply with any of the provisions of this subsection, the High Court may, for the purpose of enforcing those provisions, exercise on the application of the Board of Trade all the powers conferred on the Court by subsection (5) of section one hundred and two of the Bankruptcy Act, 1883, in cases of bankruptcy.

(3) At any time after the expiration of two years from the date of the registration of a deed of arrangement, the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the execution of the deed, or, if he then resided or carried on business in the London bankruptcy district, the High Court, may, on the application of the trustee or a creditor, or on the application of the debtor, order that all moneys representing unclaimed dividends and undistributed funds then in the hands of the trustee or under his control be paid into court.

[deed of arrangement for failure to transmit accounts.]—If a trustee under a deed of arrangement fails to transmit the accounts of his receipts and payments as such trustee, in accordance with the requirements of paragraph (b) of subsection (2) of section twenty-five of the Bankruptcy Act, 1890, as amended by this Act, he shall on summary conviction be liable to a fine not exceeding five pounds for each day during which the default continues, without prejudice, however, to the exercise by a judge of the High Court of the powers conferred by that paragraph for the purpose of enforcing the provisions thereof.

[Preferential payment to creditor on offence.]—If a trustee under a deed of arrangement pays to any creditor out of the debtor's property a sum larger in proportion to the creditor's claim than that paid to other creditors entitled to the benefit of the deed, then, unless the deed authorises him to do so, or unless such payments are either made to a creditor entitled to enforce his claim by distress or are such as would be lawful in a bankruptcy, he shall be guilty of a misdemeanour.

[Courts in which applications for enforcement of trusts to be made.]—Any application by the trustee under a deed of arrangement, or by the debtor, or by any creditor entitled to the benefit of a deed of arrangement, for the enforcement of the trusts or the determination of questions under it, shall be made to the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business at the date of the registration of the deed, or, if he then resided or carried on business in the London bankruptcy district, to the High Court:

Provided that any question as to whether any person claiming to be a creditor entitled to the benefit of a deed of arrangement is so entitled, may, subject to rules made under the Deeds of Arrangement Act, 1887, be decided either by the court having such jurisdiction as aforesaid or by the High Court.

[Power to bankruptcy courts to appoint new trustee of deed of arrangement.]—The power to appoint a new trustee or new trustees under section twenty-five of the Trustee Act, 1893, may, in the case of a deed of arrangement, be exercised either by the High Court or by the court having jurisdiction in bankruptcy in the district in which the debtor resided or carried on business, and the provisions of that section shall apply accordingly.

[Extension of Act of 1887 to instruments for benefit of three or more creditors.]—(1) The Deeds of Arrangement Act, 1887, shall extend to any instrument of the classes mentioned in section four of that Act, made after the commencement of this Act by, for, or in respect of, the affairs of a debtor who was insolvent at the date of the execution of the instrument for the benefit of any three or more creditors, in like manner as if such instrument had been made by, for, or in respect of the affairs of the debtor for the benefit of his creditors generally, but no such instrument (unless it is in fact for the benefit of creditors generally) shall be deemed to be a deed of arrangement within the meaning of the foregoing provisions of this Part of this Act, except such of those provisions as impose penalties on trustees for failure to transmit accounts.

(2) For the purposes of this section, any two or more joint creditors shall be treated as a single creditor.

[Provisions for the protection of trustees under void deeds.] Where a deed of arrangement is void by reason that the requisite majority of creditors have not assented thereto, or, in the case of a deed for the benefit of three or more creditors, by reason that the debtor was insolvent at the time of the execution of the deed and that the deed was not registered as required by this Act, but is not void for any other reason, and a receiving order is made against the debtor upon a petition presented after the lapse of three months from the execution of the deed, the trustee under the deed shall not be liable to account to the trustee in the bankruptcy for any dealings with or payments

made out of the debtor's property which would have been proper if the deed had been valid, if he proves that at the time of such dealings or payments he did not know, and had no reason to suspect, that the deed was void.

[Notice to creditors of avoidance of deed.] When a deed of arrangement is void by reason of this Act, the trustee shall, as soon as practicable after he has become aware that the deed is void, give notice in writing thereof to each creditor whose name and address he knows, and file a copy of the notice with the Registrar of Bills of Sale, and, if he fails to do so, he shall be liable, on summary conviction, to a fine not exceeding twenty pounds.

[Payment of expenses incurred by trustees.] Where a deed of arrangement is avoided by reason of the bankruptcy of the debtor, any expenses properly incurred by the trustee under the deed in the performance of any of the duties imposed on him by this Part of this Act shall be allowed or paid him by the trustee in the bankruptcy as a first charge on the estate.

PART III. GENERAL.

[Application of Act when receiving orders made under 46 and 47 Vict., c. 52, s. 103 (5).] When a receiving order is made against the debtor under subsection (5) of section one hundred and three of the principal Act, this Act shall apply as if for references to the presentation of a petition by or against a person there were substituted references to the making of such a receiving order.

[Short title, commencement, and interpretation.]—(1) This Act may be cited as the Bankruptcy and Deeds of Arrangement Act, 1913, and Part I. of this Act shall be construed with the Bankruptcy Acts, 1883 and 1890, and may be cited with those Acts as the Bankruptcy Acts, 1883 to 1913, and Part II. of this Act shall be construed with the Deeds of Arrangement Act, 1887, and may be cited with that Act and the Deeds of Arrangement Amendment Act, 1890, as the Deeds of Arrangement Acts, 1887 to 1913:

Provided that, notwithstanding that Part II. of this Act is to be construed with the Deeds of Arrangement Act, 1887, no part of this Act shall extend to Ireland.

(2) This Act shall come into operation on the first day of April nineteen hundred and fourteen.

(3) In this Act, unless the context otherwise requires, the expression "the Debtors Act, 1869," means that Act as amended by the Bankruptcy Acts, 1883 and 1890, or any other enactment, including this Act.

SCHEDULES. FIRST SCHEDULE. [Section 2.]

SECTION ELEVEN OF THE DEBTORS ACT, 1869, AS AMENDED BY SUBSEQUENT ENACTMENTS INCLUDING SECTION TWO OF THIS ACT.

[Punishment of fraudulent debtors.] Any person adjudged bankrupt or in respect of whose estate a receiving order has been made shall, in each of the cases following, be deemed guilty of misdemeanour, and on conviction thereof shall be liable to imprisonment for any term not exceeding two years with or without hard labour; (that is to say)—

(1) If he does not to the best of his knowledge and belief fully and truly discover to the trustee all his property, real and personal, and how and to whom and for what consideration and when he disposed of any part thereof, except such part as has been disposed of in the ordinary way of his trade (if any) or laid out in the ordinary expense of his family, unless he proves that he had no intent to defraud :

(2) If he does not deliver up to the trustee, or as he directs, all such part of his real and personal property as is in his custody or under his control, and which he is required by law to deliver up, unless

he proves that he had no intent to defraud :

(3) If he does not deliver up to the trustee, or as he directs, all books, documents, papers, and writings in his custody or under his control relating to his property or affairs, unless he proves that he had no intent to defraud :

(4) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals any part of his property to the value of ten pounds or upwards, or conceals any debt due to or from him, unless he proves that he had no intent to defraud :

(5) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he fraudulently removes any part of his property to the value of ten pounds or upwards :

(6) If he makes any material omission in any statement relating to his affairs, unless he proves that he had no intent to defraud :

(7) If, knowing or believing that a false debt has been proved by any person under the bankruptcy, he fails for the period of a month to inform the trustee thereof :

(8) If, after the presentation of a bankruptcy petition by or against him, he prevents the production of any book, document, paper, or writing affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law :

(9) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he conceals, destroys, mutilates, or falsifies or is privy to the concealment, destruction, mutilation, or falsification of any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law :

(10) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he makes, or is privy to the making of, any false entry in any book or document affecting or relating to his property or affairs, unless he proves that he had no intent to conceal the state of his affairs or to defeat the law :

(11) If, after the presentation of a bankruptcy petition by or against him, or within six months next before such presentation, he fraudulently parts with, alters, or makes any omission, or is privy to the fraudulently parting with, altering or making any omission, in any document affecting or relating to his property or affairs :

(12) If, after the presentation of a bankruptcy petition by or against him, or at any meeting of his creditors within six months next before such presentation, he attempts to account for any part of his property by fictitious losses or expenses :

(13) If, within six months next before the presentation of a bankruptcy petition by or against him, or in the case of a receiving order made under section one hundred and three of the Bankruptcy Act, 1883, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he, by any false representation or other fraud, has obtained any property on credit and has not paid for the same :

(14) If, within six months next before the presentation of a bankruptcy petition by or against him, or in the case of a receiving order made under section one hundred and three of the Bankruptcy

- Act, 1883, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he obtains under the false pretence of carrying on business, and, if a trader, of dealing in the ordinary way of his trade, any property on credit and has not paid for the same, unless he proves that he had no intent to defraud:
- (15) If, within six months next before the presentation of a bankruptcy petition by or against him, or in the case of a receiving order made under section one hundred and three of the Bankruptcy Act, 1883, before the date of the order, or after the presentation of a bankruptcy petition and before the making of a receiving order, he pawns, pledges, or disposes of any property which he has obtained on credit and has not paid for, unless, in the case of a trader, such pawning, pledging, or disposing is in the ordinary way of his trade, and unless in any case he proves that he had no intent to defraud:
- (16) If he is guilty of any false representation or other fraud for the purpose of obtaining the consent of his creditors or any of them to an agreement with reference to his affairs or to his bankruptcy.

For the purpose of this section, the expression "trustee" means the official receiver of the debtor's estate or trustee administering his estate for the benefit of his creditors.

SECOND SCHEDULE.

[Section 27.]

MINOR AMENDMENTS OF BANKRUPTCY ACTS.

Enactment to be amended.	Nature of Amendment.
The Bankruptcy Act, 1883 (46 & 47 Vict. c. 52). Section 20 (1).	The words "accepted or" shall be repealed.
Section 48.	After the words "with a view to giving such creditor" there shall be inserted the words "or any surety or guarantor for the debt due to such creditor."
Section 51.	The words "or a debtor ag. inst whom a receiving order has been made" shall be inserted after the words "a bankrupt," and the words "or the debtor" shall be inserted after the words "the bankrupt," wherever those words occur.
Section 59 (2).	The words "unless otherwise directed by the Board of Trade" shall be substituted for the words "subject to any order to the contrary that may be made by the court."
Section 164.	The word "debtor's" shall be substituted for the word "bankrupt's."
First Schedule, paragraph 2.	The words "six clear days" shall be substituted for the words "seven days."
The Bankruptcy Act, 1890 (53 & 54 Vict. c. 71). section 1.	The words "the proceedings on such summons are finally disposed of, settled, or abandoned" shall be substituted for the words "the sheriff is ordered to withdraw, or any interpleader issue thereon is finally disposed of."
Section 8 (1).	The words "except when the court in accordance with rules under the principal Act otherwise directs" shall be inserted after the words "the application shall" where those words last occur.

Enactment to be amended.	Nature of Amendment.
Section 25 (2) (b)	The words "at such times as may be prescribed" shall be substituted for the words "within thirty days of the first day of January in each year."
Section 25 (3)	The words "the debtor or any creditor or other person interested" shall be substituted for the words "any creditor," and the following words shall be added at the end of the subsection: "and copies of or extracts from the accounts shall, on payment of the prescribed fee, be furnished to the debtor, the creditors, or any other persons interested."

CHAPTER 35.

[APPROPRIATION ACT, 1913.]

An Act to apply certain sums out of the Consolidated Fund to the service of the years ending on the thirty-first day of March one thousand nine hundred and twelve and one thousand nine hundred and fourteen, and to appropriate the Supplies granted in this Session of Parliament.

[15th August 1913.]

CHAPTER 36.

[BISHOPRICS OF SHEFFIELD, CHELMSFORD, AND FOR THE COUNTY OF SUFFOLK ACT, 1913.]

An Act to provide for the foundation of Bishoprics of Sheffield, Chelmsford, and of another diocese to be formed of such parts of the Dioceses of Ely and Norwich as are situate within the County of Suffolk, and for other matters incidental thereto.

[15th August 1913.]

CHAPTER 37.

[NATIONAL INSURANCE ACT, 1913.]

An Act to amend Parts I. and III. of the National Insurance Act, 1911.

[15th August 1913.]

Be it enacted, &c.

1. *Provision of additional money by Parliament.*—(1) In addition to the moneys which under Part I. of the National Insurance Act, 1911 (in this Act referred to as the "principal Act"), are required to be contributed out of moneys provided by Parliament towards defraying the cost of any of the benefits conferred by Part I. of that Act or the expenses of administration of any of those benefits or otherwise for the purposes of that Act, there shall be contributed out of moneys provided by Parliament towards such costs, expenses, and purposes, such additional sums as Parliament may from time to time determine, and the provisions of the principal Act as to the manner in which the cost of benefits and the expenses of administration are to be defrayed shall be construed as applying only to the balance of such cost and expenses after such additional sums have been applied for the purposes for which they have been provided.

(2) Any additional sum so contributed for the purpose of medical benefit shall be applicable towards the payment of medical attendance and treatment of members of societies who are not insured persons mentioned in paragraph (e) of subsection (2) of section fifteen of the principal Act as amended by this Act in like manner and to the like extent as if such medical attendance and treatment were medical benefit.

2. *Extension of time for taking advantage of Act.*—(1) If a person not having been previously insured becomes an employed contributor before the thirteenth day of October nineteen hundred and thirteen, the rate of sickness benefit to

which he is entitled shall not be reduced by reason only that he did not become an employed contributor within one year after the commencement of the principal Act, notwithstanding that at the time of becoming an employed contributor he is of the age of seventeen or upwards, and according subsection (4) of section nine, and subsection (5) of section fifty-five, of the principal Act have effect, and shall be deemed always to have had effect, as if "sixty-five weeks" were therein substituted for "one year."

(2) The period within which a person may enter into insurance as a voluntary contributor at the rate referred to in subsection (1) of section five of the principal Act shall be extended to the twelfth day of October nineteen hundred and thirteen, and accordingly proviso (a) to subsection (1) of section five and subsection (3) of section fifty-five of the principal Act shall have effect, and shall be deemed always to have had effect, as if "sixty-five weeks" were therein substituted for "six months."

3. *Abolition of reduction of benefits in certain cases.*—(1) The rate of sickness benefit shall not be reduced in the case of an insured person who became an employed contributor within one year after the commencement of the principal Act by reason that at the date of so becoming an employed contributor he was of the age of fifty years or upwards, and accordingly subsection (3) of section nine and Table C in Part I. of the Fourth Schedule to the principal Act shall be repealed.

(2) Part I. of the principal Act shall apply to persons who at the commencement of the principal Act were of the age of sixty-five or upwards and under the age of seventy, and to persons who have since the commencement of the principal Act attained or may hereafter attain the age of sixty-five in like manner as it applies to other persons, and accordingly subsection (4) of section one, paragraph (a) of subsection (4) of section four, and section forty-nine of the principal Act shall be repealed:

Provided that a person who is of the age of sixty-five or upwards at the time of entering into insurance shall not be entitled to medical benefit after he attains the age of seventy, unless the number of weekly contributions paid by or in respect of him exceeds twenty-six.

(3) The Insurance Commissioners may make such regulations as they may consider necessary for providing, in the case of any such classes as aforesaid, for the transition from the provisions of the principal Act affecting them to the provisions of that Act as amended by this section.

4. *Insured persons.*—Paragraph (b) of subsection (3) of section one of the principal Act shall have effect as if there were added thereto "or, being of the age of sixty or upwards, show to the satisfaction of the Insurance Commissioners that they have ceased to be insurable as employed contributors," and, where any persons who by virtue of this section are entitled to become voluntary contributors become such contributors, the rate of contribution payable by them shall continue to be the employed rate.

5. *Exemptions.*—After paragraph (b) of subsection (1) of section two of the principal Act which relates to exemptions, the following paragraph shall be added:—

(c) Ordinarily and mainly dependent for his livelihood on the earnings derived by him from an occupation which is not employment within the meaning of this Part of this Act."

6. *Employment within meaning of principal Act.*—There shall be added to Part I. of the First Schedule to the principal Act, which specifies the classes of employment which is employment within Part I. of the principal Act, the following paragraph:—

(e) Employment under any local or other public authority except such as may be excluded by a special order.

7. *Arrears of contributions.*—(1) Where an employed contributor who is a member of an approved society pays to the society such part of any arrears which have accrued due by or in respect of him during any period of unemploy-

ment as would have been payable otherwise than by the employer had he continued in employment, the part which would have been so payable by the employer shall be excused, and the amount of the member's arrears shall be reduced accordingly.

For the purpose of calculating the parts which would have been payable by the employer and otherwise than by an employer had an employed contributor continued in employment, the rate of his remuneration shall be deemed to exceed two shillings and sixpence a working day, unless he proves to the satisfaction of the society that his usual rate of remuneration was two shillings and sixpence a working day or less, in which case his rate of remuneration shall be deemed to be such usual rate.

(2) Where in any year a society, or, in the case of a society with branches, a branch of a society, proves to the satisfaction of the Insurance Commissioners that the total number of weekly contributions which accrued due as arrears during the preceding year in respect of all its members who were employed contributors exceeded the standard number (that is to say, three weekly contributions for every such member) then, for the purpose of recouping to the society the loss it will suffer, there shall be paid to the society, or to the society on behalf of the branch, as the case may be, out of the sums retained by the Insurance Commissioners for discharging their liabilities in respect of reserve values, the prescribed amount for every week by which the standard was so exceeded, but not exceeding the total amount so excused as aforesaid:

Provided that if the aggregate amount so payable in any year exceeds one hundred thousand pounds, the excess shall be paid out of moneys provided by Parliament.

(3) The Insurance Commissioners may make regulations for carrying this section into effect.

8. Reduction, &c., of benefits on account of arrears.—Subject to the provisions of subsection (4) of section ten of the principal Act, insured persons who are in arrear shall be liable to such reduction, postponement or suspension of benefits as may be prescribed so, however, that any such reduction, postponement or suspension of benefit shall be approximately equivalent to the value of the loss occasioned by the failure to pay the contributions in arrear, and the provisions of the principal Act regulating the reduction, postponement and suspension of benefits on account of arrears shall cease to have effect, and the regulations of the Insurance Commissioners may prescribe the time within which, and the conditions under which, arrears may be paid up.

9. Benefits of exempted persons.—(1) Regulations made by the Insurance Commissioners under subsection (4) of section four of the principal Act shall provide for applying the contributions paid in respect of persons who hold certificates of exemption in providing medical benefit and sanatorium benefit for such persons and the cost of the administration of such benefits, and such persons shall, if they fulfil such conditions as may be imposed by those regulations, become entitled to medical benefit and sanatorium benefit as if they were members of approved societies, and the provisions of the principal Act and this Act with respect to the payment and administration of these benefits (including those relating to the application of moneys provided by Parliament towards the cost of those benefits and the expenses of the administration thereof) shall, subject to any modifications, adaptations, and exceptions contained in the regulations, apply accordingly:

Provided that—

- (a) the conditions so imposed shall not require payment of upwards of twenty-six weekly contributions before the person becomes entitled to such benefits;
- (b) where the total income from all sources of any such person exceeds one hundred and sixty pounds a year, he shall be required to make his own arrangements for receiving medical attendance and treatment, and subsection (3) of section fifteen of the principal Act shall apply accordingly.

(2) This section shall apply to persons in Ireland with this modification, that the benefits to be provided shall be such as may be specified in a scheme framed by the Irish Insurance Commissioners, but the sum to be contributed out of moneys provided by Parliament towards the cost of those benefits and the administration thereof shall be the same as if the benefits were benefits to insured persons.

10. Medical benefit.—(1) No voluntary contributor whose total income from all sources exceeds one hundred and sixty pounds a year shall be entitled to receive medical benefit, but in that case the weekly contribution which would otherwise be payable by him shall be reduced by one penny.

(2) Paragraph (e) of subsection (2) of section fifteen of the principal Act shall extend to members of societies other than such friendly societies as are mentioned in that paragraph who were at the date of the passing of the principal Act entitled as such members to medical attendance and treatment in like manner and subject to the like conditions as it applies to members of such friendly societies.

11. Alternative arrangements for the panel system.—If the Insurance Commissioners are satisfied that the insured persons or any considerable proportion of them within an area, or part of an area, are not receiving satisfactory medical treatment under the panel system, the Commissioners may authorise the insurance committee to make, or may themselves make, such other arrangements as will secure to insured persons within the area or part such better medical service as is practicable having regard to the funds available for the purpose, or arrangements whereby insured persons within the area, or part of the area, may be required to make their own arrangements for receiving medical attendance and treatment, including medicines and appliances, and whereunder the insurance committee or the Insurance Commissioners undertake to pay the cost of such medical attendance and treatment upon such scale as they may determine with the approval of the Commissioners so calculated that the medical attendance and treatment so secured shall be of a quality not inferior to that provided under the panel system.

12. Sickness benefit.—(1) So much of subsection (5) of section eight of the principal Act as requires the payment of fifty contributions between two periods of disease or disablement in order to prevent the one being treated as a continuation of the other shall cease to have effect.

(2) At the end of the same subsection the following provision shall be added—

"Where by virtue of subsection (1) of section eleven of this Act a part only of sickness benefit has been paid to an insured person, he shall, for the purposes of this subsection, be treated as having been in receipt of sickness benefit for a period bearing the same proportion to the whole period in respect of which such part benefit was paid to him as that part bears to the whole benefit, and the period so resulting shall be deemed to have been continuous and to have expired on the last day of the incapacity in respect of which the partial benefit was paid."

13. Amendment of paragraph (c) of s. 8 (1) of principal Act.—Paragraph (c) of subsection (1) of section eight of the principal Act shall have effect as if for the words "commencing from the fourth day after being so rendered incapable of work" there were substituted the words "commencing on the fourth day of such incapacity," and for the purposes of that paragraph as so amended a day on which the incapacitated person was prevented by the incapacity from doing any effective work shall be treated as a day of incapacity, but a Sunday shall not be so treated, unless the incapacitated person would but for the incapacity have worked on that day.

14. Maternity benefit.—(1) Maternity benefit shall in every case be the mother's benefit, but, where the benefit is payable in respect of the husband's insurance, the wife's receipt, or his receipt, if authorised by her, on her behalf, shall be a sufficient discharge to the society or committee, and, where the benefit is paid to the

husband, he shall pay it to the wife, and in subsection (1) of section eighteen of the principal Act for the words "treated as a benefit for her husband, and shall be administered in cash or otherwise by the approved society of which he is a member" there shall be substituted the words "administered in the interests of the mother and child in cash or otherwise by the approved society of which the husband is a member."

(2) At the end of subsection (1) of section eighteen of the principal Act the following words shall be inserted:—

"Where a woman who is an employed contributor is the wife, or, if the child is a posthumous child, the widow, of an insured person, then—

(a) if her husband is, or was at the date of his death, a member of an approved society, and by reason of an insufficient number of contributions having been paid by or in respect of him, or on account of arrears, no maternity benefit is payable in respect of his insurance, she shall, on her confinement, be entitled to receive in respect of her own insurance such sum as she would have been entitled to receive if he had not been an insured person;

(b) If her husband is, or was at the date of his death, a deposit contributor, and by reason of an insufficient number of contributions having been paid by or in respect of him or of the insufficiency of the sum standing to his credit in the Deposit Contributors Fund, no maternity benefit or a sum less than the full maternity benefit is payable in respect of his insurance, she shall, on her confinement, be entitled to receive, in respect of her own insurance, such sum as, with the sum (if any) payable in respect of her husband's insurance, is equal to the sum she would have been entitled to receive if he had not been an insured person."

(3) Where a woman confined of a child is herself an insured person and is a married woman or, if the child is a posthumous child, a widow, she shall, in lieu of any sickness or disablement benefit to which she may be entitled under subsection (6) of section eight of the principal Act, be entitled to receive a maternity benefit from the society of which she is a member or the insurance committee, as the case may be, in addition to any maternity benefit to which she may be otherwise entitled in respect of her husband's or her own insurance, and every approved society and insurance committee shall make rules to the satisfaction of the Insurance Commissioners requiring any woman in respect of whom any such sum is payable in respect of her own insurance to abstain from remunerative work during a period of four weeks after her confinement.

(4) So much of subsection (1) of section eighteen of the principal Act as provides that if a duly-qualified medical practitioner is summoned in pursuance of the rules made under the Midwives Act, 1902, the prescribed fee shall, subject to regulations made by the Insurance Commissioners, be recoverable as part of the maternity benefit, shall cease to have effect.

15. Amendment of s. 12 of principal Act.—(1) Section twelve of the principal Act shall have effect as though proviso (1) to subsection (2) of that section were omitted therefrom, and any sum which, but for the provisions of that section, would have been payable to any person on account of sickness, disablement, or maternity benefit, if and so far as it is not paid or applied in accordance with the provisions of that section while the person to or in respect of whom it would have been payable is an inmate of any workhouse, hospital, asylum, convalescent home, or infirmary, may, if the society or committee administering the benefit thinks fit, be applied in the provision of any surgical appliances required for the person or otherwise for his benefit after he ceases to be an inmate, or, if it is not so expended, shall be paid in cash to the person after leaving the institution, in a lump sum or in instalments as the society or committee thinks fit, and, where any sum which apart from section twelve of the principal Act would have been pay-

able on account of sickness benefit has been paid or applied under that section as amended by this section, it shall be treated as a payment in respect of sickness benefit for the purpose of determining the rate and duration of that benefit.

(2) Proviso (ii) to subsection (2) of section twelve of the principal Act shall have effect as if for the words "both on account of sickness or disablement benefit and on account of maternity benefit" there were substituted the words "both on account of maternity benefit payable in lieu of sickness or disablement benefit and on account of maternity benefit not so payable," and for the words "which would otherwise be payable on account of maternity benefit" there were substituted the words "which would otherwise be payable on account of such last-mentioned maternity benefit."

16. Provisions as to societies having members in more than one part of the United Kingdom.]—(1) So much of subsection (3) of section eighty-three of the principal Act as provides that the regulations made under that subsection shall require that in the case of a society or branch which has amongst its members persons resident in England, Scotland, Ireland, and Wales, or any two or any three of such parts of the United Kingdom, the members in each such part shall, for the purposes of Part I. of the principal Act relating to valuations, surpluses, deficiencies, and transfers, be treated as if they formed a separate society, is hereby repealed:

Provided that, where the joint committee are satisfied, on representations made within six months after the passing of this Act, that the members of any such society resident in a part of the United Kingdom other than that in which the registered office of the society is situated desire that they shall be treated as if they formed a separate society, the members of the society resident in that part shall, for the purposes aforesaid, continue to be so treated, and the joint committee in the exercise of their powers under this proviso shall in each case consult with the Commissioners for the part of the United Kingdom in question and hold an inquiry, or, where in their opinion the wishes of members cannot otherwise be properly ascertained, cause a poll to be taken in the prescribed manner.

(2) A society shall not be required to be approved in respect of any part of the United Kingdom other than that in which its registered office is situated by reason of the fact that among its members are persons for the time being resident in that part of the United Kingdom, but a society shall not admit as a member any person resident at the time of admission in any part of the United Kingdom in respect of which the society is not an approved society.

(3) A society which has received approval for more than one part of the United Kingdom may relinquish approval for any part or parts other than that in which its registered office is situated, if it satisfies the joint committee that it fulfils one or other of the following conditions:—

(i) that none of its members are resident in the parts of the United Kingdom in respect of which approval is proposed to be relinquished; or

(ii) that any members who are so resident were at the time when they were admitted to membership of the society resident in a part of the United Kingdom in which the society will remain an approved society.

For the purposes of this provision, admission to membership of a society means admission to membership whether for the purposes of Part I. of the principal Act or for any other purposes of the society, and in the case of a society which is a separate section of another society includes admission to membership of that other society.

(4) Where any members of a society reside in a part of the United Kingdom in respect of which the society is not an approved society, the provisions of subsection (2) of section eighty of the principal Act, which relate to payments into and out of the Scottish National Health Insurance Fund, and the corresponding provisions of the principal Act relating to the Irish and Welsh National Health Insurance Funds, shall apply as if those members resided in the part of the

United Kingdom in which the registered office of the society is situated or, in the case of a society with branches, in which the registered office of the branch of which they are members is situated.

This subsection shall apply as respects the members of a branch of a society resident in a part of the United Kingdom other than that in which the registered office of the branch is situated, notwithstanding that the society is approved for that part, unless the joint committee, on the application of the society, otherwise determine, but no branch to which the said provisions apply shall admit as a member of the branch any person resident at the time of admission in any part of the United Kingdom other than that in which the registered office of the branch is situated.

(5) For the purposes of facilitating adjustments in respect of persons removing from Ireland to Great Britain or from Great Britain to Ireland, the transfer values and reserve values of persons resident in Ireland shall be calculated as if they were resident in Great Britain, and, where any member of an approved society is at the time of attaining the age of seventy resident in Ireland, the prescribed part of his transfer value shall be carried by the society of which he is a member to a separate account and dealt with in such manner as may be prescribed.

17.—Variation in rules of approved societies.] Where the executive body of a society show to the satisfaction of the Commissioners that it is of importance to the society that the rules of the society should be amended or varied immediately, but that, owing to the requirements of the rules the amendments or variation cannot be made without delay or without the authority of a meeting of the society, or some committee, or delegate body, and that that meeting cannot be held without undue delay or expense, the Commissioners may, on the application of the executive body, authorise the variation, or amendment if rendered necessary by the passing of this Act to come into force immediately, and continue in force until the delay required has elapsed, or until the time at which the meeting would in ordinary course have been held, and, where the rules require the sanction of a special general meeting, the Commissioners may authorise the substitution of the sanction of the annual general meeting.

18. Provisions as to associations.] An approved society may join and remain in an association for the purposes of section thirty-nine of the principal Act notwithstanding that the number of its members for the purposes of Part I. thereof is less than fifty or more than five thousand, and, in calculating for the purposes of that section the number of persons who are such members, no account shall be taken of members who by reason of marriage are suspended from receiving ordinary benefits and are not special voluntary contributors or who are not insured persons.

19. Special provisions as to casual and intermittent employment.]—(1) The Insurance Commissioners may, by special order, modify the principal Act in its application to persons whose employment is of a casual or intermittent nature, and the employers of such persons, and any such order may apply either generally or to any one or more particular trades or industries or branches thereof and either generally or in any one or more particular localities, and, where any such order is restricted to a particular trade or industry or branch thereof in a particular locality, it may extend to other persons if employed in the same class of employment as the persons to whom the order primarily relates.

(2) The order may make provision as to the amount of the employed rate and the contributions payable by the employer and by the employed contributor respectively, and the payment, recovery and collection of such contributions in such manner, in such proportions, and in respect of such periods as may be specified in the order, and for the apportionment amongst employers of the amounts payable by employers, and may modify and adapt the provisions of the principal Act accordingly, so however that the employer's

contributions shall not exceed sixpence nor the employed contributor's contributions fourpence (or in the case of a woman threepence) in any week, nor, if the contributions are payable day by day, shall the employed contributor's contribution for any day exceed one penny.

(3) The provisions of the principal Act as to the laying of regulations before both Houses of Parliament and the proceedings consequent thereon shall apply to special orders made under this section in lieu of the provisions contained in subsection (2) of section one hundred and thirteen of the principal Act:

Provided that, in lieu of the inquiry as regards any draft order under the said section one hundred and thirteen, there shall be substituted for the purposes of this section an inquiry to be held by one or more competent and impartial persons to be appointed by the Lord Chancellor on the demand (made in the prescribed manner) of the person making the objection to the draft order.

20. Woman of British nationality married to an alien.]—(1) Subsection (3) of section forty-five of the principal Act shall be amended so as to read as follows:—

"An insured woman who, having been a British subject before marriage, has ceased to be a British subject by reason of marriage with a person not being a British subject, shall not be subject to the provisions of this section."

(2) Where the wife of an alien insured person, being a person subject to the provisions of section forty-five of the principal Act, was before marriage a British subject, the maternity benefit payable in respect of his insurance shall, subject to regulations to be made by the Insurance Commissioners, be increased by two-sevenths, and the amount of such increase shall be paid out of moneys provided by Parliament.

21. Special provision for aliens.] Subsection (4) of section forty-five of the principal Act shall have effect as if after the words "approved society" where they first occur there were inserted the words "or which amalgamates with or transfers its engagements to an approved society or which proves to the satisfaction of the Insurance Commissioners that it has organised, either solely or jointly with other bodies, an approved society for the benefit of its members."

22. Extension of s. 46 of the principal Act to warrant officers of marines, &c.] For the purposes of section forty-six of the principal Act, "marine" includes every warrant officer of marines, except Royal Marine gunners, and "soldier" does not include a soldier who has not been finally accepted for service.

23. Provisions as to the mercantile marine.]—(1) In section forty-eight, subsection (1) of the principal Act, the following proviso shall be inserted:—

"Provided that, in respect of that part of such period as aforesaid during which the owner of the ship is not liable to pay wages to the master, seaman, or apprentice so suffering from disease or disablement, sickness benefit may be paid in whole or part if such master, seaman, or apprentice has dependants, and was serving on a home-trade ship, and the benefit so paid shall be paid to, or applied for the relief or maintenance of, such dependants in such manner as the society or committee by which the benefit is administered, after consultation whenever possible with the master, seaman, or apprentice, thinks fit."

(2) The rules of the Seaman's National Insurance Society may, notwithstanding anything in subsections (4) and (8) of section forty-eight of the principal Act, provide for the admission to the society of masters, seamen, and apprentices to the sea service or sea-fishing service who are entitled to be or become voluntary contributors, and for allowing a member who leaves the sea service and who is or continues to be a voluntary contributor to remain a member of the society.

24. Amendment of s. 51 of principal Act.] In subsection (1) of section fifty-one of the principal Act, for the words:—

"Where the managers of any institution

carried on for charitable or reformatory purposes prove that the persons who are inmates of and supported by the institution—”

there shall be substituted the following words, namely:—

“Where the managers of any institution carried on for charitable or reformatory purposes prove that the persons who for such purposes are inmates of the institution.”

25. Power to treat all employees of an employer as being remunerated at normal rate.]—(1) Where it appears to the Insurance Commissioners that the persons employed by any employer or group of employers in any class or classes of work are in general in receipt of a rate of remuneration which, although liable to fluctuation, is normally within any of the limits hereinafter mentioned, the Commissioners may, by a special order, declare that all the persons employed by that employer or group of employers in that class or those classes of work shall, for the purposes of the principal Act, but subject to any exceptions contained in the order, be treated as if they were constantly in receipt of the normal rate of remuneration, notwithstanding that those persons or any of them may in any week in fact receive a higher or lower rate of remuneration.

(2) The limits referred to in this section are—

- (a) A rate not exceeding one shilling and sixpence a working day;
- (b) A rate exceeding one shilling and sixpence but not exceeding two shillings a working day;
- (c) A rate exceeding two shillings but not exceeding two shillings and sixpence a working day.

26. Employers in case of outworkers.] The Insurance Commissioners may, by a special order, provide that as respects any outworkers or any class of outworkers specified in the order the person specified in the order shall, for the purposes of Part I. of the principal Act, be deemed to be the employer.

27. Decision of disputes.]—(1) Any dispute between an approved society and any person as to whether that person is or was at any date a member of that society for the purposes of Part I. of the principal Act, shall be decided in like manner as a dispute between an approved society and an insured person who is a member thereof, and any dispute between two or more approved societies or between an approved society and an insurance committee or between two or more insurance committees, shall be decided in like manner as a dispute between an insured person and an insurance committee, and section sixty-seven of the principal Act shall apply accordingly.

(2) If any question arises as to the person who is the employer of an employed contributor, the question shall be determined in like manner as a question in paragraph (a) of section sixty-six of the principal Act, and that section shall apply accordingly.

28. Extension of powers of Commissioners to make regulations.] The Insurance Commissioners may make regulations with respect to all or any of the matters specified in the First Schedule to this Act, and the regulations may contain such incidental, supplemental, and consequential provisions as appear necessary for modifying and adapting the provisions of the principal Act to the provisions of the regulations and otherwise for the purpose of the regulations.

29. Joint committee and Insurance Commissioners.]—(1) Regulations made by the Treasury under section eighty-three of the principal Act may incorporate the joint committee constituted under that section.

(2) All documents issued before the commencement of this Act by the joint committee, either alone or jointly with any of the bodies of Insurance Commissioners appointed for the purposes of Part I. of the principal Act shall be deemed to have been validly issued if issued under a seal purporting to be the seal of the

joint committee, or under the hands of any four or more of the members of the committee countersigned by the secretary or clerk to the joint committee.

(3) The Documentary Evidence Act, 1868, as amended by the Documentary Evidence Act, 1882, shall apply to each of the said several bodies of Insurance Commissioners, and to the said joint committee, as if each of those bodies and the joint committee were included in the first column of the schedule to the first-mentioned Act, and the chairman or any other member or the secretary or clerk, or any person authorised to act on behalf of the secretary or clerk, of the body or committee, were mentioned in the second column of that schedule, and as if the regulations referred to in those Acts included any document issued by any of those bodies or that committee.

(4) This section shall come into operation on the passing of this Act.

30. Insurance committees.]—(1) Every insurance committee constituted or to be constituted under section fifty-nine subsection (1) of the principal Act shall be a body corporate by the name of the insurance committee for the borough (or county) of , and every such insurance committee shall have perpetual succession and a common seal, and may sue and be sued, and (subject to the consent in every case of the Insurance Commissioners) have power and authority (without any licence in mortmain) to take, purchase, and hold land for the purposes of the principal Act and this Act.

(2) At least one woman shall be on every subcommittee formed by an insurance committee for dealing with the administration of any benefit, and section fifty-nine of the principal Act shall be varied accordingly.

31. Expenses of insurance committees.]—(1) In addition to any allowances for travelling expenses which may be paid under subsection (2) of section sixty-one of the principal Act, an insurance committee may pay to the members of the committee subsistence allowance and compensation for loss of remunerative time in accordance with a scheme prepared by the committee and approved by the Insurance Commissioners, and there shall be paid out of moneys provided by Parliament towards the expenses of an insurance committee under such scheme, such sum (if any) as the Insurance Commissioners, with the consent of the Treasury, may determine so, however, that the aggregate amount so paid shall not exceed thirty thousand pounds in any one year.

(2) After the words “Provided that, if the special circumstances of any county” in subsection (2) of section sixty-one of the principal Act, there shall be added the words “or county borough.”

(3) An insurance committee may pay as general expenses incurred by them in the execution of their duties any sum, not exceeding ten pounds in any one year, as a subscription to the funds of any association of insurance committees whose objects are approved by the Insurance Commissioners, as well as any reasonable expenses of the attendances of representatives, not exceeding in any case four, at meetings of such associations, on a scale to be approved by the Commissioners.

32. Consultation with practitioners who have entered into agreements with insurance committees.] Where it is made the duty of an insurance committee under the provisions of this Act or of the principal Act, or of regulations made thereunder, to ascertain, in respect of any matter affecting the administration of medical benefit in the area, the opinions and wishes of the medical practitioners who have entered into agreements with the insurance committee for the attendance and treatment of insured persons whose medical benefit is administered by the committee, they shall do so through a committee appointed by such practitioners in accordance with regulations made by the Insurance Commissioners, and such committee shall perform such duties and shall exercise such

powers as may be determined by the Insurance Commissioners, and in any area in which within six months of the time of the passing of this Act no local medical committee has been recognised under the provisions of section sixty-two of the principal Act, a committee elected in the manner hereinbefore provided may be recognised as the local medical committee for that area.

33.—Committees elected by persons, &c., supplying drugs and medicines.]—(1) In every county or county borough there shall be elected in accordance with regulations made by the Insurance Commissioners, by the persons, firms, and bodies corporate, who have agreed to supply drugs, medicines, and appliances to insured persons whose medical benefit is administered by the committee, a local committee, and it shall, subject to regulations made by the Insurance Commissioners, be consulted by the insurance committee on all general questions affecting the supply of drugs, medicines, and appliances to insured persons, and shall perform such duties and exercise such powers as may be determined by the Insurance Commissioners.

(2) The insurance committee, if requested so to do by any committee elected by the medical practitioners who have entered into agreement with the insurance committee for the attendance and treatment of insured persons whose benefit is administered by the insurance committee, and if requested by the local committee elected in manner provided by the last foregoing subsection, may be authorised by the Insurance Commissioners out of moneys available for the provision of medical benefit within the area to allot to, and for the administrative expenses of, each of the said committees, respectively, such a sum not exceeding one penny in all in respect of each insured person entitled to obtain medical attendance and treatment from the practitioners who have entered into agreement with the insurance committee as may be determined by the insurance committee with the consent of the Commissioners.

34. Offences and legal proceedings.]—(1) If any employer deducts, or attempts to deduct, from the wages or other remuneration of an employed contributor the whole or any part of the employer's contribution, as defined in the Second Schedule to the principal Act, he shall be guilty of a contravention of the provisions of Part I. of the principal Act.

(2) Every person who buys, takes in exchange, or takes in pawn from an insured person, or any person acting on his behalf, on any pretence whatever, any insurance card or insurance book shall be liable on summary conviction to a fine not exceeding ten pounds.

(3) The time within which proceedings may be taken under subsection (2) of section sixty-nine of the principal Act against an employer charged with an offence of failing or neglecting to pay any contribution in respect of an employed contributor shall be one year from the date of the commission of the alleged offence, and where an employer has been convicted of such an offence, then, if notice of the intention to do so is served with the summons or warrant, evidence may be given of failure or neglect on the part of the employer to pay other contributions in respect of that employed contributor during the year preceding the date when the information was laid, and on proof of such failure or neglect the employer shall be liable to pay to the Insurance Commissioners a sum equal to the total amount of all the contributions which he is so proved to have failed or neglected to pay.

35. Provision as to marriage certificates.] The provisions of section one hundred and fourteen of the principal Act, which relate to certificates of birth, shall apply to certificates of marriage in like manner as they apply to certificates of birth, except that the fee shall be one shilling instead of sixpence, and that the person from whom the certificate and form of requisition may be obtained shall be the registrar or superintendent registrar or other person having the care of the register in which the marriage is entered.

36. Change of name of Post Office Fund. The special fund constituted under section forty-two of the principal Act shall be known as the "Deposit Contributors' Fund," and, consequently, references in the principal Act and documents issued thereunder to the Post Office Fund shall be construed as references to the Deposit Contributors' Fund.

37. Exemption of documents from stamp duty. Stamp duty shall not be chargeable upon the documents in connection with business under Part I. of the principal Act, specified in the Second Schedule to this Act.

38. Power to take evidence on oath. Where, under any provision of the principal Act or any regulations made thereunder, the Insurance Commissioners are required or authorised to hold, or to appoint any committee or person to hold an inquiry, the witnesses shall, if the Commissioners think fit, or if any one of the parties so demand, be examined on oath, and the committee or person appointed to hold an inquiry shall have power to administer oaths for the purpose.

39. Agreements with Metropolitan Asylums Board. Notwithstanding anything in any Act, it shall be lawful for the managers of the Metropolitan Asylums district, with the sanction of the Local Government Board, to enter into agreements with any county council or county borough council or, with the consent of the county council, with any authority in a county, for the reception of insured persons and their dependants suffering from tuberculosis or any such other disease as the Local Government Board, with the approval of the Treasury, may appoint under section eight of the principal Act, into hospitals or sanatoria provided by the managers, and for this purpose the managers shall not be deemed to be a poor law authority. Any such agreements may provide that the cost of the treatment of the patients so received, or some part thereof, shall be borne otherwise than as provided by section eighty of the Public Health (London) Act, 1891.

40. Revocation and amendment of orders and extension of time for making orders under s. 78 of principal Act.—(1) Any order or special order made under the principal Act or this Act may be revoked, varied, or amended by an order or special order made in like manner as the original order.

(2) The time within which the powers of the Insurance Commissioners to make orders under section seventy-eight of the principal Act may

be exercised shall be extended to the thirty-first day of December nineteen hundred and fourteen.

41. Special provisions as to Scotland.—

42. Special provisions as to Wales.—(1) Where the area of an insurance committee making an arrangement under subsection (1) of section sixteen of the principal Act is situated in Wales, the Welsh Insurance Commissioners shall be substituted for the Local Government Board as the authority whose approval is required under that subsection for the purpose of enabling that committee to enter into such an arrangement.

(2) The council of a county or county borough in Wales may agree with King Edward the Seventh's Welsh National Memorial Association to make such annual or other payments, subject to such conditions and for such periods as may be approved by the Welsh Insurance Commissioners, and any expenses incurred under this subsection shall, in the case of a county council, be defrayed in like manner as expenses under subsection (2) of section sixty-four of the principal Act, and, in the case of a county borough council, as part of their expenses incurred in the execution of the Public Health Acts.

43. Short title, construction.—(1) This Act may be cited as the National Insurance Act, 1913, and the principal Act and this Act may be cited together as the National Insurance Acts, 1911 to 1913.

(2) This Act shall be deemed to be Part I. of the principal Act, except that any provisions of this Act which supersede or amend any provisions of Part III. of the principal Act shall be deemed to be part of Part III. of the principal Act.

(3) This Act shall, save as otherwise expressly provided, come into operation on the first day of September nineteen hundred and thirteen or such later date or dates as the Joint Committee may by order appoint, and different days may be appointed for different purposes and different provisions of this Act, so, however, that no date later than the thirteenth day of October, nineteen hundred and thirteen, shall be appointed for the coming into operation of the provisions of this Act altering the rates of sickness or disablement benefit in respect of any class of insured persons, nor later than the fifteenth day of January, nineteen hundred and fourteen, in respect of any other purpose or provision.

(4) The provisions of the principal Act mentioned in the Third Schedule to this Act are hereby repealed.

SCHEDULES.

FIRST SCHEDULE.

[Section 28.]

Matters with respect to which Regulations may be made.

SECOND SCHEDULE.

[Section 37.]

1. Draft, or order, or receipt given by or to an approved society, or branch, or insurance committee in respect of money payable in pursuance of Part I. of the principal Act, or of the rules of the society or branch.

2. Letter or power of attorney granted by any person as trustee for the transfer of any money of an approved society, or branch, or insurance committee invested in his name in the public funds.

3. Bond or other security given to, by, or on account of an approved society or branch, or by the treasurer or other official thereof.

4. Appointment or revocation of appointment of agent, or other document required or authorised by or in pursuance of Part I. of the principal Act, or by the rules of an approved society or branch.

5. Agreement entered into between an approved society or branch and an insurance committee in regard to medical benefit under Part I. of the principal Act.

THIRD SCHEDULE.

[Section 43.]

ENACTMENTS REPEALED.

Subsection (4) of section one.

Paragraph (a) of subsection (4) of section four. In subsection (5) of section eight the words ("and at least fifty weekly contributions have been paid by or in respect of him").

Subsection (3) of section nine.

Subsection (6) of section ten.

Proviso (i) of subsection (2) of section twelve.

Subsection (1) of section eighteen, from ("but if in the case of a midwife being selected") to the end of that subsection.

Subsection (3) of section forty-five.

Section forty-nine.

Table C. in Part I. of the Fourth Schedule.

CHAPTER 38.

MENTAL DEFICIENCY AND LUNACY (SCOTLAND) ACT, 1913.]

An Act to make better and further provision for the care of Mentally Defective Persons and to amend the Law relating to Lunacy in Scotland.

[15th August, 1913.]

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